

Board of Supervisors

Patrick G. Call
Chairman
District 1

Michael J. Ortega
County Administrator

Ann English
Vice-Chairman
District 2

James E. Vlahovich
Deputy County Administrator

Richard R. Searle
Supervisor
District 3

Katie A. Howard
Clerk



AGENDA FOR REGULAR BOARD MEETING
Tuesday, September 27, 2011 at 10:00 AM
BOARD OF SUPERVISORS HEARING ROOM
1415 MELODY LANE, BUILDING G, BISBEE, AZ 85603

ANY ITEM ON THIS AGENDA IS OPEN FOR DISCUSSION AND POSSIBLE ACTION

PLEDGE OF ALLEGIANCE

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

ROLL CALL

Members of the Cochise County Board of Supervisors will attend either in person or by telephone, video or internet conferencing.

Note that some attachments may be updated after the agenda is published. This means that some presentation materials displayed at the Board meeting may differ slightly from the attached version.

CONSENT

Board of Supervisors

1. Reappoint Rusty Winkler to the Public Lands Advisory Committee (PLAC) from District 2 for a two-year term beginning July 1, 2011 and through June 30, 2013.
2. Accept the Proclamation issued by Governor Jan Brewer regarding the 2012 Presidential Preference Election and direct the Clerk to publish a notice of same.
3. Approve the Minutes of the regular meeting of the Board of Supervisors of September 13, 2011.
4. Approve the appointments of the following persons as Precinct Committee persons for the Republican and Democratic Parties of Cochise County: Precinct #53 SV Town & Country, Sarah Mae Pacheco and Fred William Fischer; Precinct #2 BE J-Six, Jane Price; Precinct #28 Pirtleville, Cornelia Munoz; Precinct #10 BI Terrace, Alison B. McLeod.

Community Development

5. Adopt Zoning Ordinance 11-07, to approve Docket Z-11-07 rezoning Parcel 106-70-072A from MH-72 to GB, pursuant to the Application of Robert Hannon.

Elections and Special Districts

6. Adopt Resolution 11-45 cancelling the Bowie Fire District Special Governing Board Election of November 8, 2011 for three (3) board seats up for election and appointing the one (1) candidate (Debra Juarez) who filed to run in the election to fill one (1) of the three (3) open board positions with all the powers and duties of that office as if elected to that office, effective the 1st day of December, 2011 and declaring the other two (2) open board positions vacant effective the 1st day of December, 2011.

Finance

7. Approve demands and budget amendments for operating transfers.

Health

8. Approve the renewal to IGA# ADHS12-007884, Emergency Preparedness, between the Arizona Department of Health Services and the Cochise County Health Department, in the amount of \$201,596.61, for the period of 8/31/11 – 8/30/16.

Procurement

9. Approve the renewal of Contract No. 10-18-PUR-02 for Countywide Printing Services to West Press, who recently purchased Excel Print Communications, for the period of October 1, 2011 through September 30, 2012.

PUBLIC HEARINGS

Community Development

10. Adopt Zoning Ordinance 11-08, to approve Docket Z-08-11R (APS), rezoning Parcel 407-61-023L from Heavy Industrial (HI) back to RU-4, pursuant to the request by APS to revert the previously approved rezoning for this parcel.
11. Adopt Zoning Ordinance 11-09 to (1) amend certain Cochise County zoning districts boundaries from, RU-4 (Rural, one dwelling per 4 acres), to PD (Planned Development District), (2) amend the Cochise County Comprehensive Plan, and (3) approve a master development plan, pursuant to the application of James Lee of Madison Diversified.
12. Adopt Zoning Ordinance 11-10 to approve Docket R-11-03, amending Article 20 and Section 2003 of the Cochise County Zoning Regulations to continue, change or modify non-conforming land uses, lots and structures in order to provide regulatory relief to property owners affected by catastrophic events declared emergencies by the Board, such as the recent Monument and Horseshoe II fires.

13. Adopt Zoning Ordinance 11-11 to approve Docket R-11-04, amending the existing Cochise County Building Safety Code Owner-Builder Amendment Option, and to Section 508 of the Cochise County Zoning Regulations allowing property owners whose structures were damaged or destroyed by catastrophic events that the Board of Supervisors declares an emergency, and who wish to repair or rebuild on properties less than four acres to qualify for this option.
14. Adopt Zoning Ordinance 11-12 to approve Docket R-11-05, codifying 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.

ACTION

Board of Supervisors

15. Adopt Resolution 11-___ supporting the Brophy Land Exchange or Resolution 11-___ not supporting the Brophy Land Exchange.

REPORT BY MICHAEL J. ORTEGA, COUNTY ADMINISTRATOR -- RECENT AND PENDING COUNTY MATTERS

CALL TO THE PUBLIC

This is the time for the public to comment. Members of the Board may not discuss items that are not specifically identified on the agenda.

SUMMARY OF CURRENT EVENTS

Report by District 1 Supervisor, Patrick Call

Report by District 2 Supervisor, Ann English

Report by District 3 Supervisor, Richard Searle

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.

Cochise County - 1415 Melody Lane, Building G - Bisbee, Arizona 85603
(520) 432-9200 - Fax (520) 432-5016 - Email : board@cochise.az.gov
www.cochise.az.gov

"PUBLIC PROGRAMS, PERSONAL SERVICE"

Regular Board of Supervisors Meeting

Date: 09/27/2011

Appoint Rusty Winkler to PLAC from District 2

Submitted By: Gussie Motter, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:

NAME n/a

of PRESENTER:

Mandated Function?:

Recommendation:

of ORIGINALS

Submitted for Signature:

TITLE n/a

of PRESENTER:

**Source of Mandate
or Basis for Support?:**

Agenda Item Text:

Reappoint Rusty Winkler to the Public Lands Advisory Committee (PLAC) from District 2 for a two-year term beginning July 1, 2011 and through June 30, 2013.

Background:

Rusty Winkler needs to be reappointed to the PLAC as his term expired on June 30, 2011. Supervisor English would like to reappoint Mr. Winkler and Mr. Winkler has expressed his willingness to serve.

Department's Next Steps (if approved):

Send Mr. Winkler the Oath of Office and appointment letter

Impact of NOT Approving/Alternatives:

District 2 will only have 1 representative on the PLAC for the October meeting

To BOS Staff: Document Disposition/Follow-Up:

n/a

Regular Board of Supervisors Meeting

Date: 09/27/2011

Accept Governor's Proclamation re: the Presidential Preference Election

Submitted By: Katie Howard, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:

NAME n/a

of PRESENTER:

Mandated Function?:

Recommendation:

of ORIGINALS

Submitted for Signature:

TITLE n/a

of PRESENTER:

**Source of Mandate
or Basis for Support?:**

Agenda Item Text:

Accept the Proclamation issued by Governor Jan Brewer regarding the 2012 Presidential Preference Election and direct the Clerk to publish a notice of same.

Background:

Provisions of the A.R.S. allow the Governor to issue a Proclamation changing the statutory date for the Presidential Preference Election and also require the Board to accept and publish the Proclamation:

16-241. Presidential preference election; conduct of election

A. A presidential preference election shall be held on the fourth Tuesday in February of each year in which the president of the United States is elected to give qualified electors the opportunity to express their preference for the presidential candidate of the political party indicated as their preference by the record of their registration. No other election may appear on the same ballot as the presidential preference election.

B. Notwithstanding subsection A of this section, the governor may issue a proclamation that the presidential preference election is to be held on a date earlier than the fourth Tuesday in February. The proclamation shall be issued no later than one hundred fifty days before the date of the election as set forth in the proclamation. The governor shall transmit a copy of the election proclamation to the clerk of the county boards of supervisors.

C. Except as otherwise provided in this article, the presidential preference election shall be conducted and canvassed in the same manner as prescribed in this title for the primary election held pursuant to section 16-201. All provisions of other laws that govern elections and that are not in conflict with this article apply to a presidential preference election, including laws relating to registration and qualifications of electors.

D. Unless otherwise specifically prescribed by this article, the powers and duties conferred by law on boards of supervisors, officers in charge of elections, county recorders, precinct boards and central counting boards in connection with a primary election are conferred on those persons for purposes of a presidential preference election and shall be exercised by them for a presidential preference election.

E. Every act that is an offense pursuant to the election laws of this state is an offense for purposes of a presidential preference election, and a person is subject to the penalties prescribed by those laws.

16-21416-214. Issuance of proclamation for general election by governor; publication by boards of supervisors

A. At least thirty days before a general election, the governor shall issue a proclamation containing a statement of the time of election and the offices to be filled.

B. The governor shall transmit a copy of the election proclamation to the officer in charge of elections of

the several counties.

C. The board of supervisors shall be notified by the officer in charge of elections of receipt of the election proclamation, and within five days after its receipt the board shall meet and publish a copy thereof in an official newspaper of the county at least ten days before a general election.

Department's Next Steps (if approved):

If approved, publish the Proclamation.

Impact of NOT Approving/Alternatives:

Cochise County will not be in compliance with state law.

To BOS Staff: Document Disposition/Follow-Up:

Publish the Proclamation.

Attachments

PR_091211_Proclamation

Janice K. Brewer
Governor

Office of the Governor

PROCLAMATION

2012 Presidential Preference Election

WHEREAS, 2012 is a presidential election year in the United States of America;

WHEREAS, Arizona is at the forefront of reviving federalism and advancing solutions to national issues such as illegal immigration and border security, Medicaid spending and the fiscal crisis facing governments throughout the country; and

WHEREAS, pursuant to Arizona Revised Statute § 16-241(A) and (B), Arizona's presidential preference election is to be held on the fourth Tuesday in February of a presidential election year, unless the Governor decides to hold the presidential preference election on an earlier date.

NOW, THEREFORE, I, Janice K. Brewer, Governor of the State of Arizona, by virtue of the authority vested in me by the Arizona Constitution and laws of the State of Arizona, do hereby proclaim and order that Arizona's 2012 Presidential Preference election shall remain on the fourth Tuesday in February and be held on February 28, 2012.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.



Janice K. Brewer
GOVERNOR

DONE at the Capitol in Phoenix at this 12th day of September in the Year Two Thousand and Eleven and of the Independence of the United States of America the Two Hundred and Thirty-Sixth.

ATTEST:

Ken Blumenthal

SECRETARY OF STATE

Regular Board of Supervisors Meeting

Date: 09/27/2011

Minutes

Submitted By: Arlethe Rios, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:

NAME n/a
of PRESENTER:

Mandated Function?:

Recommendation:

of ORIGINALS
Submitted for Signature:

TITLE n/a
of PRESENTER:

Source of Mandate
or Basis for Support?:

Agenda Item Text:

Approve the Minutes of the regular meeting of the Board of Supervisors of September 13, 2011.

Background:

Minutes

Department's Next Steps (if approved):

Signed minutes routed for processing and posted on the internet.

Impact of NOT Approving/Alternatives:

n/a

To BOS Staff: Document Disposition/Follow-Up:

Send to the Recorder's Office for microfiche purposes.

Regular Board of Supervisors Meeting

Date: 09/27/2011

Precinct Committee Members

Submitted By: Arlethe Rios, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Recommendation: Approve

Document Signatures: BOS Signature NOT Required

of ORIGINALS 0

Submitted for Signature:

NAME n/a
of PRESENTER:

TITLE n/a
of PRESENTER:

Docket Number (If applicable):

Mandated Function?:

**Source of Mandate
or Basis for Support?:**

Agenda Item Text:

Approve the appointments of the following persons as Precinct Committee persons for the Republican and Democratic Parties of Cochise County: Precinct #53 SV Town & Country, Sarah Mae Pacheco and Fred William Fischer; Precinct #2 BE J-Six, Jane Price; Precinct #28 Pirtleville, Cornelia Munoz; Precinct #10 BI Terrace, Alison B. McLeod.

Background:

Requested by the Cochise County Republican and Democratic Committee and verified as eligible by the County Elections department.

Department's Next Steps (if approved):

Send letters to those approved with copies to Elections and to Cochise County Republican and Democrat Parties.

Impact of NOT Approving/Alternatives:

Vacancies will exist in these positions.

To BOS Staff: Document Disposition/Follow-Up:

Send letters to committee members.

Regular Board of Supervisors Meeting**Community Development****Date:** 09/27/2011**Docket Z-11-07 (Hannon) - A Request to rezone a Parcel from MH-72 to GB in Sierra Vista****Submitted By:** Keith Dennis, Community
Development**Department:** Community Development**Division:** Planning**Presentation:** No A/V Presentation**Recommendation:** Approve**Document Signatures:** BOS Signature Required**# of ORIGINALS** 1
Submitted for Signature:**NAME**
of PRESENTER: Keith Dennis**TITLE**
of PRESENTER: Senior
Planner**Docket Number (If applicable):****Mandated Function?:** Not Mandated**Source of Mandate**
or Basis for Support?:**Agenda Item Text:**

Adopt Zoning Ordinance 11-07, to approve Docket Z-11-07 rezoning Parcel 106-70-072A from MH-72 to GB, pursuant to the Application of Robert Hannon.

Background:

MEMORANDUM

TO: Cochise County Board of Supervisors

FROM: Keith Dennis, Senior Planner

For: Michael Turisk, Interim Planning Director

SUBJECT: Docket Z-11-07 (Hannon)

DATE: September 14, 2011, for the September 27, 2011 Meeting

APPLICATION FOR A REZONING

Docket Z-11-07 (Hannon): The Applicant seeks to rezone an 8,400 square foot parcel of land 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.

The subject parcel, 106-70-072A, is located at 110 South 5th Street in Sierra Vista, AZ.

I. PLANNING AND ZONING COMMISSION

On August 10, 2011, the Planning and Zoning Commission voted unanimously (6 – 0) to forward this Docket to the Board, with a recommendation of conditional approval. The Commission recommendation included the conditions recommended by staff. **Note that Per Section 2206.09 of the Zoning Regulations, after the Commission holds a public hearing, the Board may adopt the recommendations of the Planning Commission through use of consent calendar without holding a second public hearing if there is no objection, request for a public hearing or other protest.**

II. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Size: 8,400 Square Feet

Zoning: MH-72 (Manufactured Home District, 1 dwelling per 7,200 square feet)

Growth Area: Category A Urban Growth Area

Plan Designation: Enterprise Redevelopment

Area Plan: Sierra Vista Sub-Watershed
Existing Uses: 120 square foot storage shed
Proposed Uses: Rezone to General Business to allow Contract Construction Services
Surrounding Zoning
Relation to Subject Parcel Zoning District Use of Property
North GB Tile Shop
South MH-72 Manufactured Home
East MH-72 Vacant Lot
West GB Warehouse/Industrial

III. PARCEL HISTORY

1988 – Permit issued for 450 square foot manufactured home and chain link fence surrounding property;
2000 – Violation issued for auto repair without a permit. In 2004, an additional violation was issued for unauthorized auto repair. These violations were issued to a previous owner of the property.

IV. PROJECT DESCRIPTION

The Applicant, Robert Hannon of New Mountain Plumbing, seeks to establish a Contract Construction Services land use on the property. This includes construction of a 1,216 square foot site built building, to be used as an office and yard for the business. Such a use is not permitted under the MH-72 District regulations, but is a permitted principal use in the General Business District. The Applicant thus seeks to rezone the property to GB, to facilitate the intended land use.

Northwest view of the subject property on 5th Street in Fry.

V. ANALYSIS OF IMPACTS

Mandatory Compliance

The properties are within a Category “A”—Urban Growth Area with an “Enterprise Redevelopment” Comprehensive Plan designation. Section 402 of the County Zoning Regulations permits owners of property lying within areas so designated to request a rezoning to the General Business District.

Compliance with Rezoning Criteria

Section 2208.03 of the Zoning Regulations provides fifteen (15) criteria used to evaluate rezoning requests. These factors are employed by staff to analyze a request, to formulate a recommendation, and to determine what conditions would apply to such recommendation.

Thirteen of the 15 criteria are applicable to this Docket, and the request complies with eight of the 13 applicable criteria as submitted. With the conditions of approval recommended by staff, the application would comply with 12 of the 13 criteria.

1. Provides an adequate Land Use/Concept Plan: Complies

The Applicant's site plan provides sufficient information required to satisfy this factor.

2. Compliance with Applicable Site Development Standards: Does Not Comply

Rezoning the property to General Business to facilitate a Contract Construction Services land use would not, in itself, create any conflict related to development standards. For example, a Contract Construction Services land use may be permitted as a vehicle and equipment storage yard only, with no new proposed construction. The Applicant proposes to construct an approximately 30' x 40' building on the property for the business. The parcel itself is 60 feet wide along the 5th Street frontage. A 5'9" setback is proposed along the North side, abutting the General Business District to the North. Along the South side, the proposed setback is 24 feet. This site-specific condition would have to be remedied by means of a Variance in order to allow the development to proceed as planned.

Working with the Applicant, staff has identified a number of development standard deficiencies regarding the proposed use. On September 28, 2011 – the evening following the Board of Supervisors public hearing on this Docket – the Board of Adjustment for District 1 will hold a public hearing on a request for Variances to address these deficiencies. The Variances requested are: 1804.06.F.1 (waiver for defined driveways); 1804.06.F.3 (variance to driveway width); 1804.07.B (variance from driveway and parking

area surfacing requirements); 1203.05 (waiver from screening requirements); 1806.02.B (waiver from landscaping requirements); and 1203.02 (Variance to required setbacks).

Staff suggested that the Applicant apply for these Variances in advance of the Board action on the rezoning request, in order to expedite the Applicant's progress towards developing the property as intended. Should the Board deny the rezoning application, the Board of Adjustment will be informed of this on September 28, and the item will not be acted upon.

The property immediately South is also zoned MH-72, and is developed for manufactured home use.

3. Creation of Districts Capable of Development: Complies.

The proposed General Business zoning would not result in any limitation on neighboring properties' development capacity.

4. Limitation on Creation of Nonconforming Uses: Complies.

The rezoning would not create any nonconforming land uses, but as stated above, the proposed development could not conform to the General Business setback standard due to site conditions.

5. Compatibility with Existing Development: Complies.

The neighborhood, the Fry Townsite County enclave, is characterized by heavy commercial and industrial uses, and scattered manufactured home development. The rezoning proposal would facilitate a land use compatible with the character of the neighborhood.

6. Rezoning to More Intense Districts: Complies.

The rezoning request to General Business is for a parcel that borders a GB District on two sides, and is thus an extension of an existing District.

The property is adjacent to a GB District on the North and West sides.

7. Adequate Services and Infrastructure: Complies (Subject to Condition #3).

The parcel takes access from a paved, County-maintained road, and adequate access to water sewer and power services.

In order to ensure adequate infrastructure for the project site, an access driveway to the 5th Street travelway will be required. The Applicant is aware of the requirement for adequate access, and the concept plan reflects this. Condition #3 would require that, during the commercial permitting process, the Applicant obtain a right-of-way permit from the County Highway Department and construct a County-approved commercial apron to the property from 5th Street (See Attachment D – Transportation Planner Memo).

8. Traffic Circulation Criteria: Complies (Subject to Condition #3).

The proposal would result in a land use in keeping with the form and function of the surrounding transportation network. As with factor 7, above, the recommended requirement for a commercial apron accessing 5th Street would ensure compliance with this factor (See Condition #3).

9. Development Along Major Streets: Not Applicable.

The property does not access any major roadway.

10. Infill: Complies.

As a request for a General Business District rezoning within an Enterprise Redevelopment Plan Designation area, the proposal would comply with this factor.

11. Unique Topographic Features: Not Applicable.

There are no topographical features on the property that warrant special consideration.

12. Water Conservation: Complies (Subject to Condition #4).

The parcel is within the Sierra Vista Sub-Watershed Plan area, and is therefore subject to the water conservation measures provided in the Plan. Condition #4, which is a standard condition staff recommends for all rezonings, would obligate the Applicant to install water fixtures compliant with the policy document.

13. Public Input: Complies.

The property owner did complete the required Citizen Review report, and received no response.

14. Hazardous Materials: Complies (Subject to Condition #4).

The Applicant proposes no use or storage of hazardous materials on the property. Should this change, however, Condition #4 would require compliance with local, state and federal laws and regulations concerning hazardous materials.

15. Compliance with Comprehensive/Area Plan Policies: Complies

The project site is within the Fry Townsite County Enclave, an area designated as "Enterprise Redevelopment" on the Comprehensive Plan map. These areas are defined as being "designated for improvement as a commercial/industrial area." The business would comply with the Comprehensive Plan policy regarding appropriate land uses in this area.

As stated, Condition #4 would require compliance with the Sierra Vista Sub-Watershed area plan.

VI. PUBLIC COMMENT

The Department sent notices to neighboring property owners within 1,000 feet. Staff posted the property on September 12, 2011 and advertised the request in the Bisbee Observer on September 8, 2011. To date, the Department has received no correspondence regarding the proposal from within the 1,000 foot notification area.

VII. SUMMARY AND CONCLUSION

Factors in Favor of the Rezoning

1. The Planning and Zoning Commission recommends conditional approval of this Docket.
2. The project site is designated as an Enterprise Redevelopment area on the Cochise County Comprehensive Plan, and as a heavy commercial use, the operation is in keeping with the policies regarding appropriate development in the area;
3. With the recommended conditions, the rezoning request complies with 12 of the 13 rezoning factors;
4. Two neighbors have expressed support in writing for the request.

Factors Against Approval

1. While the change in land use facilitated by the rezoning would not of itself create any nonconformance, the 60-foot width of the lot combined with the required 40-foot setback to the adjacent MH-72 District to the South would create the conditions for a non-conforming structure. Should the Board of Supervisors approve the rezoning request, this and other deficiencies, would be heard at a public hearing before the District 1 Board of Adjustment on September 28, 2011.

VIII. RECOMMENDATION

Based on the factors in favor of approval, Staff recommends conditional approval of the rezoning request, with the conditions noted below.

Sample Motion: Mr. Chair, I move to adopt Zoning Ordinance 11-__, approving Docket Z-11-07, rezoning Parcel 106-70-072A to General Business, with the conditions of approval recommended in the staff report; the Factors in Favor of approval constituting the Findings of Fact.

The recommended approval conditions are as follows:

1. The Applicant shall provide the County a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the subject property within thirty (30) days of Board of Supervisors approval of the rezoning.
2. The Applicant shall obtain a building permit within one year of Board of Supervisors approval of the rezoning, otherwise the rezoning approval shall be deemed null and void, and the property shall revert to

the MH-72 Zoning District.

3. Prior to issuance of a certificate of occupancy for the Contract Construction Services operation, the Applicant shall obtain a right-of-way permit from the County Highway Department, and construct a commercial apron for access to the 5th Street road travelway that meets County standards.

4. 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.

IX. ATTACHMENTS

- A. Rezoning Application
- B. Location/Surrounding Zoning Map
- C. Land Use/Concept Plan
- D. Transportation Planner Memo
- E. Citizen Review and Public Comment
- F. Legal Notice
- G. Zoning Ordinance 11-__

Department's Next Steps (if approved):

If the Board adopts the Zoning Ordinance, the next step would be for the Chairman sign the Ordinance.

Impact of NOT Approving/Alternatives:

If the Board does not adopt the Zoning Ordinance, the property will retain the MH-72 Zoning designation.

To BOS Staff: Document Disposition/Follow-Up:

If the Chairman signs the Zoning Ordinance, please return a recorded copy of the same to the Planning Department for the files.

Attachments

Staff Memo

Z-11-07 Attachments

Zoning Ordinance

FOR REFERENCE ONLY_436_8-10 PZC Presentation for Z-11-07 (Hannon)_PPT



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 Board of Supervisors
FROM: Keith Dennis, Senior Planner
For: Michael Turisk, Interim Planning Director
SUBJECT: Docket Z-11-07 (Hannon)
DATE: September 14, 2011, for the September 27, 2011 Meeting

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The subject parcel, 106-70-072A, is located at 110 South 5th Street in Sierra Vista, AZ.

I. PLANNING AND ZONING COMMISSION

On August 10, 2011, the Planning and Zoning Commission voted unanimously (6 – 0) to forward this Docket to the Board, with a recommendation of conditional approval. The Commission recommendation included the conditions recommended by staff.

II. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Size: 8,400 Square Feet
Zoning: MH-72 (Manufactured Home District, 1 dwelling per 7,200 square feet)
Growth Area: Category A Urban Growth Area
Plan Designation: Enterprise Redevelopment
Area Plan: Sierra Vista Sub-Watershed
Existing Uses: 120 square foot storage shed
Proposed Uses: Rezone to General Business to allow Contract Construction Services

Surrounding Zoning

Relation to Subject Parcel	Zoning District	Use of Property
North	GB	Tile Shop
South	MH-72	Manufactured Home
East	MH-72	Vacant Lot
West	GB	Warehouse/Industrial

III. PARCEL HISTORY

1988 – Permit issued for 450 square foot manufactured home and chain link fence surrounding property;

2000 – Violation issued for auto repair without a permit. In 2004, an additional violation was issued for unauthorized auto repair. These violations were issued to a previous owner of the property.

IV. PROJECT DESCRIPTION

The Applicant, Robert Hannon of New Mountain Plumbing, seeks to establish a Contract Construction Services land use on the property. This includes construction of a 1,216 square foot site built building, to be used as an office and yard for the business. Such a use is not permitted under the MH-72 District regulations, but is a permitted principal use in the General Business District. The Applicant thus seeks to rezone the property to GB, to facilitate the intended land use.



Northwest view of the subject property on 5th Street in Fry.

V. ANALYSIS OF IMPACTS

Mandatory Compliance

The properties are within a Category “A”—Urban Growth Area with an “Enterprise Redevelopment” Comprehensive Plan designation. Section 402 of the County Zoning Regulations permits owners of property lying within areas so designated to request a rezoning to the General Business District.

Compliance with Rezoning Criteria

Section 2208.03 of the Zoning Regulations provides fifteen (15) criteria used to evaluate rezoning requests. These factors are employed by staff to analyze a request, to formulate a recommendation, and to determine what conditions would apply to such recommendation.

Thirteen of the 15 criteria are applicable to this Docket, and the request complies with eight of the 13 applicable criteria as submitted. With the conditions of approval recommended by staff, the application would comply with 12 of the 13 criteria.

1. Provides an adequate Land Use/Concept Plan: Complies

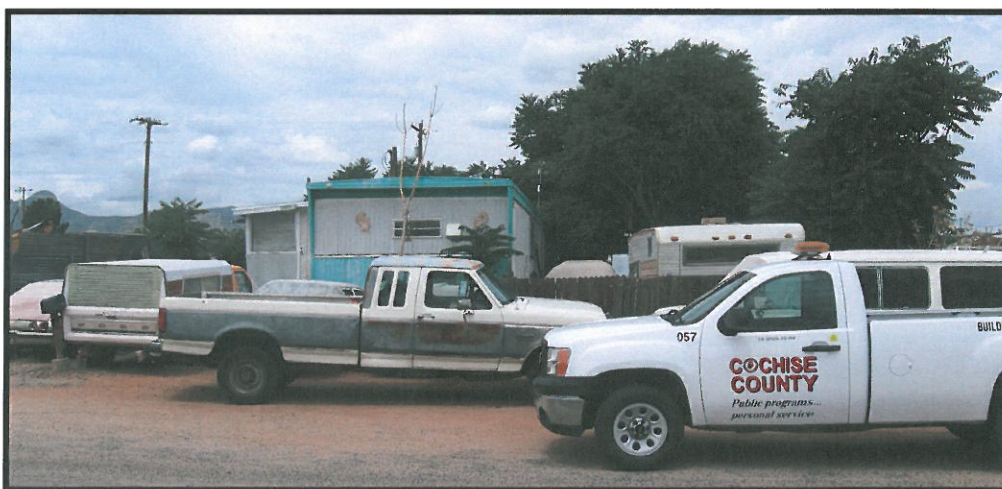
The Applicant's site plan provides sufficient information required to satisfy this factor.

2. Compliance with Applicable Site Development Standards: Does Not Comply

Rezoning the property to General Business to facilitate a Contract Construction Services land use would not, in itself, create any conflict related to development standards. For example, a Contract Construction Services land use may be permitted as a vehicle and equipment storage yard only, with no new proposed construction. The Applicant proposes to construct an approximately 30' x 40' building on the property for the business. The parcel itself is 60 feet wide along the 5th Street frontage. A 5'9" setback is proposed along the North side, abutting the General Business District to the North. Along the South side, the proposed setback is 24 feet. This site-specific condition would have to be remedied by means of a Variance in order to allow the development to proceed as planned.

Working with the Applicant, staff has identified a number of development standard deficiencies regarding the proposed use. On September 28, 2011 – the evening following the Board of Supervisors public hearing on this Docket – the Board of Adjustment for District 1 will hold a public hearing on a request for Variances to address these deficiencies. The Variances requested are: 1804.06.F.1 (waiver for defined driveways); 1804.06.F.3 (variance to driveway width); 1804.07.B (variance from driveway and parking area surfacing requirements); 1203.05 (waiver from screening requirements); 1806.02.B (waiver from landscaping requirements); and 1203.02 (Variance to required setbacks).

Staff suggested that the Applicant apply for these Variances in advance of the Board action on the rezoning request, in order to expedite the Applicant's progress towards developing the property as intended. Should the Board deny the rezoning application, the Board of Adjustment will be informed of this on September 28, and the item will not be acted upon.



The property immediately South is also zoned MH-72, and is developed for manufactured home use.

3. Creation of Districts Capable of Development: Complies.

The proposed General Business zoning would not result in any limitation on neighboring properties' development capacity.

4. Limitation on Creation of Nonconforming Uses: Complies.

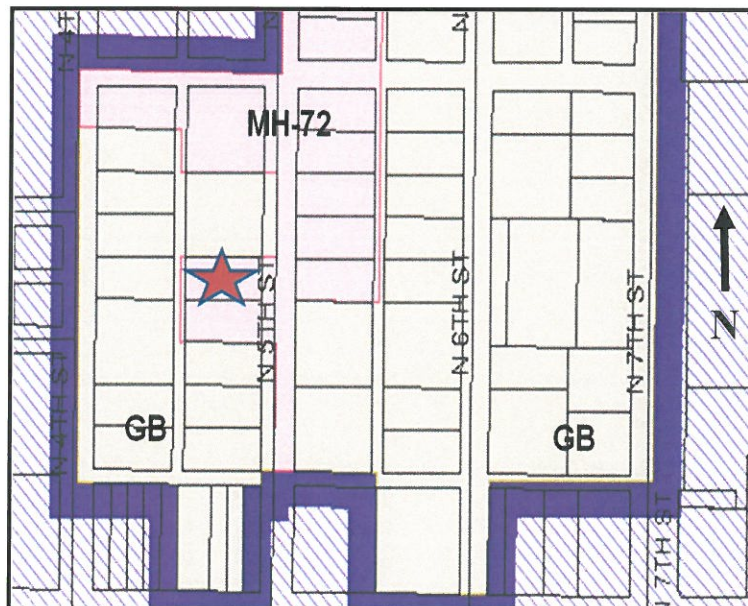
The rezoning would not create any nonconforming land uses, but as stated above, the proposed development could not conform to the General Business setback standard due to site conditions.

5. Compatibility with Existing Development: Complies.

The neighborhood, the Fry Townsite County enclave, is characterized by heavy commercial and industrial uses, and scattered manufactured home development. The rezoning proposal would facilitate a land use compatible with the character of the neighborhood.

6. Rezoning to More Intense Districts: Complies.

The rezoning request to General Business is for a parcel that borders a GB District on two sides, and is thus an extension of an existing District.



The property is adjacent to a GB District on the North and West sides.

7. Adequate Services and Infrastructure: Complies (Subject to Condition #3).

The parcel takes access from a paved, County-maintained road, and adequate access to water sewer and power services.

In order to ensure adequate infrastructure for the project site, an access driveway to the 5th Street travelway will be required. The Applicant is aware of the requirement for adequate access, and the concept plan reflects this. Condition #3 would require that, during the commercial permitting process, the Applicant obtain a right-of-way permit from the County Highway Department and construct a County-approved commercial apron to the property from 5th Street (See Attachment D – Transportation Planner Memo).

8. Traffic Circulation Criteria: Complies (Subject to Condition #3).

The proposal would result in a land use in keeping with the form and function of the surrounding transportation network. As with factor 7, above, the recommended requirement for a commercial apron accessing 5th Street would ensure compliance with this factor (See Condition #3).

9. Development Along Major Streets: Not Applicable.

The property does not access any major roadway.

10. Infill: Complies.

As a request for a General Business District rezoning within an Enterprise Redevelopment Plan Designation area, the proposal would comply with this factor.

11. Unique Topographic Features: Not Applicable.

There are no topographical features on the property that warrant special consideration.

12. Water Conservation: Complies (Subject to Condition #4).

The parcel is within the Sierra Vista Sub-Watershed Plan area, and is therefore subject to the water conservation measures provided in the Plan. Condition #4, which is a standard condition staff recommends for all rezonings, would obligate the Applicant to install water fixtures compliant with the policy document.

13. Public Input: Complies.

The property owner did complete the required Citizen Review report, and received no response.

14. Hazardous Materials: Complies (Subject to Condition #4).

The Applicant proposes no use or storage of hazardous materials on the property. Should this change, however, Condition #4 would require compliance with local, state and federal laws and regulations concerning hazardous materials.

15. Compliance with Comprehensive/Area Plan Policies: Complies

The project site is within the Fry Townsite County Enclave, an area designated as "Enterprise Redevelopment" on the Comprehensive Plan map. These areas are defined as being "designated for improvement as a commercial/industrial area." The business would comply with the Comprehensive Plan policy regarding appropriate land uses in this area.

As stated, Condition #4 would require compliance with the Sierra Vista Sub-Watershed area plan.

VI. PUBLIC COMMENT

The Department sent notices to neighboring property owners within 1,000 feet. Staff posted the property on September 12, 2011 and advertised the request in the *Bisbee Observer* on September 8, 2011. To date, the Department has received no correspondence regarding the proposal from within the 1,000 foot notification area.

VII. SUMMARY AND CONCLUSION

Factors in Favor of the Rezoning

1. The Planning and Zoning Commission recommends conditional approval of this Docket.
2. The project site is designated as an Enterprise Redevelopment area on the Cochise County Comprehensive Plan, and as a heavy commercial use, the operation is in keeping with the policies regarding appropriate development in the area;
3. With the recommended conditions, the rezoning request complies with 12 of the 13 rezoning factors;
4. Two neighbors have expressed support in writing for the request.

Factors Against Approval

1. While the change in land use facilitated by the rezoning would not of itself create any nonconformance, the 60-foot width of the lot combined with the required 40-foot setback to the adjacent MH-72 District to the South would create the conditions for a non-conforming structure. Should the Board of Supervisors approve the rezoning request, this and other deficiencies, would be heard at a public hearing before the District 1 Board of Adjustment on September 28, 2011.

VIII. RECOMMENDATION

Based on the factors in favor of approval, Staff recommends **conditional approval** of the rezoning request, with the conditions noted below.

Sample Motion: Mr. Chair, I move to adopt Zoning Ordinance 11-__, approving Docket Z-11-07, rezoning Parcel 106-70-072A to General Business, with the conditions of approval recommended in the staff report; the Factors in Favor of approval constituting the Findings of Fact.

The recommended approval conditions are as follows:

1. The Applicant shall provide the County a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the subject property within thirty (30) days of Board of Supervisors approval of the rezoning.
2. The Applicant shall obtain a building permit within one year of Board of Supervisors approval of the rezoning, otherwise the rezoning approval shall be deemed null and void, and the property shall revert to the MH-72 Zoning District.
3. Prior to issuance of a certificate of occupancy for the Contract Construction Services operation, the Applicant shall obtain a right-of-way permit from the County Highway Department, and construct a commercial apron for access to the 5th Street road travelway that meets County standards.

4. 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.

IX. ATTACHMENTS

- A. Rezoning Application
- B. Location/Surrounding Zoning Map
- C. Land Use/Concept Plan
- D. Transportation Planner Memo
- E. Citizen Review and Public Comment
- F. Legal Notice
- G. Zoning Ordinance 11-__



COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Susan Buchan, Director

COCHISE COUNTY REZONING APPLICATION

Submit to: Cochise County Planning and Zoning Department
1415 Melody Lane, Building E, Bisbee, Arizona 85603

1. Applicant's Name: BOB HANSON NEW MOUNTAIN PLUMBING, INC.

2. Mailing Address: 25 W. TACOMA

SIERRA VISTA AZ 85635
City State Zip Code

3. Telephone Number of Applicant: (520) 246-3278

4. Telephone Number of Contact Person if Different: () SAME

5. Assessor's Tax Parcel Number: 106 - 70 - 072 A (Can be obtained from your
County property tax statement) Number of acres proposed for rezoning: LESS THAN 1 acre

6. Applicant is (check one):

- Sole owner: X
- Joint Owner: _____ (See number 8)
- Designated Agent of Owner: _____
- If not one of the above, explain interest in rezoning: _____

7. If applicant is not sole owner, attach a list of all owners of property proposed for rezoning by parcel number. Include all real parties in interest, such as beneficiaries of trusts, and specify if owner is an individual, a partnership, or a corporation:

- List attached (if applicable): Sole Owner

8. If applicant is not sole owner, indicate which **notarized** proof of agency is attached:

- If corporation, corporate resolution designating applicant to act as agent: _____
- If partnership, written authorization from partner: _____
- If designated agent, attach a **notarized** letter from the property owner(s) authorizing representation as agent for this application.

9. Attach a proof of ownership for all property proposed for rezoning. Check which proof of ownership is attached:

- Copy of deed of ownership: ✓

- Copy of title report: ✓
- Copy of tax notice: Have not owned property long enough
- Other, list: _____

10. If property is a new split, or the rezoning request results in more than one zoning district on any tax parcel then a copy of a survey and associated legal description stamped by a surveyor or engineer licensed by the State of Arizona must be attached.

Will approval of the rezoning result in more than one zoning district on any tax parcel?

Yes _____ No X

11. Is more than one parcel contained within the area to be rezoned? Yes _____ No X

- If yes and more than one property owner is involved, all property owners must sign the attached consent signature form.

12. Indicate existing Zoning District for Property: MH-72

13. Indicate proposed Zoning District for Property: G.B.

Note: A copy of the criteria used to determine if there is a presumption in favor of or against this rezoning is attached. Review this criteria and supply all information that applies to your rezoning. Feel free to call the Planning Department with questions regarding what information is applicable.

14. Comprehensive Plan Category: A (A County planner can provide this information.)

15. Comprehensive Plan Designation or Community Plan: ENTERPRISE development (A County planner can provide this information.)

Note: in some instances a Plan Amendment might be required before the rezoning can be processed. Reference the attached rezoning criteria, Section A.

16. Describe all structures already existing on the property: 12x12 Steel Building

17. List all proposed uses and structures which would be established if the zoning change is approved. Be complete. At a minimum, attach a Land Use/Concept Plan per Section 2208.03 B.1. of the Zoning Regulations. Plumbing Shop

18. Citizen Review Report attached? Yes X No _____ (Note: a rezoning application is not considered complete without a citizen review report per Section 2203 of the Zoning Regulations)

19. Which streets or easements will be used for traffic entering and exiting the property?

5th Street Entrance

These streets are (check one): _____ Private X County-maintained _____ *Other

*If you checked private or other, attach documentation describing your right to use this access for the use proposed.

20. What off-site improvements are proposed for streets or easements used by traffic that will be generated by this rezoning? _____

21. How many driveway cuts do you propose to the streets or easements used by traffic that will be generated by this rezoning? Existing

22. Identify how the following services will be provided:

Service	Utility Company/Service Provider	Provisions to be made
Water	Bella Vista	
Sewer/Septic	Septic	
Electricity	S.S.U.C	
Natural Gas	South West	
Telephone	Cox	
Fire Protection	County	

23. This section provides an opportunity for you to explain the reasons why you consider the rezoning to be appropriate at this location. The attached copy of the criteria used to determine if there is a presumption in favor of or against this rezoning is attached for your reference (attach additional pages as needed). _____

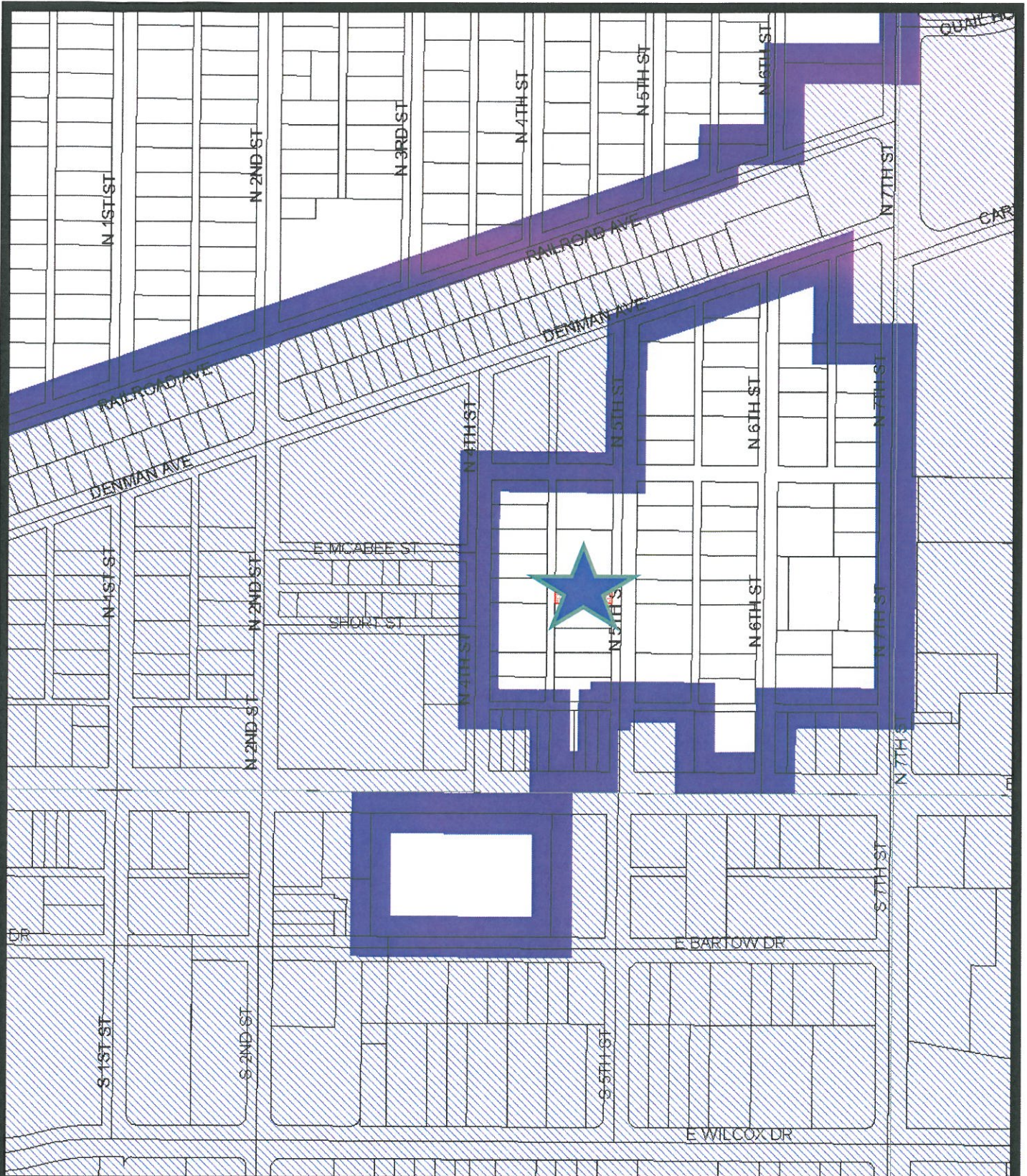
Most Building around site already Commercial
will add to street improvement

24. AFFIDAVIT

I, the undersigned, do hereby file with the Cochise County Planning Commission this petition for rezoning. I certify that, to the best of my knowledge, all the information submitted herein and in the attachments is correct. I hereby authorize the Cochise County Planning Department staff to enter the property herein described for the purpose of conducting a field visit.

Applicant's Signature: Keith L. Harrison

Date: June 24, 2011



Docket Z-11-07 (Hannon) Location Map

This map is a product of the
Cochise County GIS



0' 1" = 336'

B
71

Site Plan

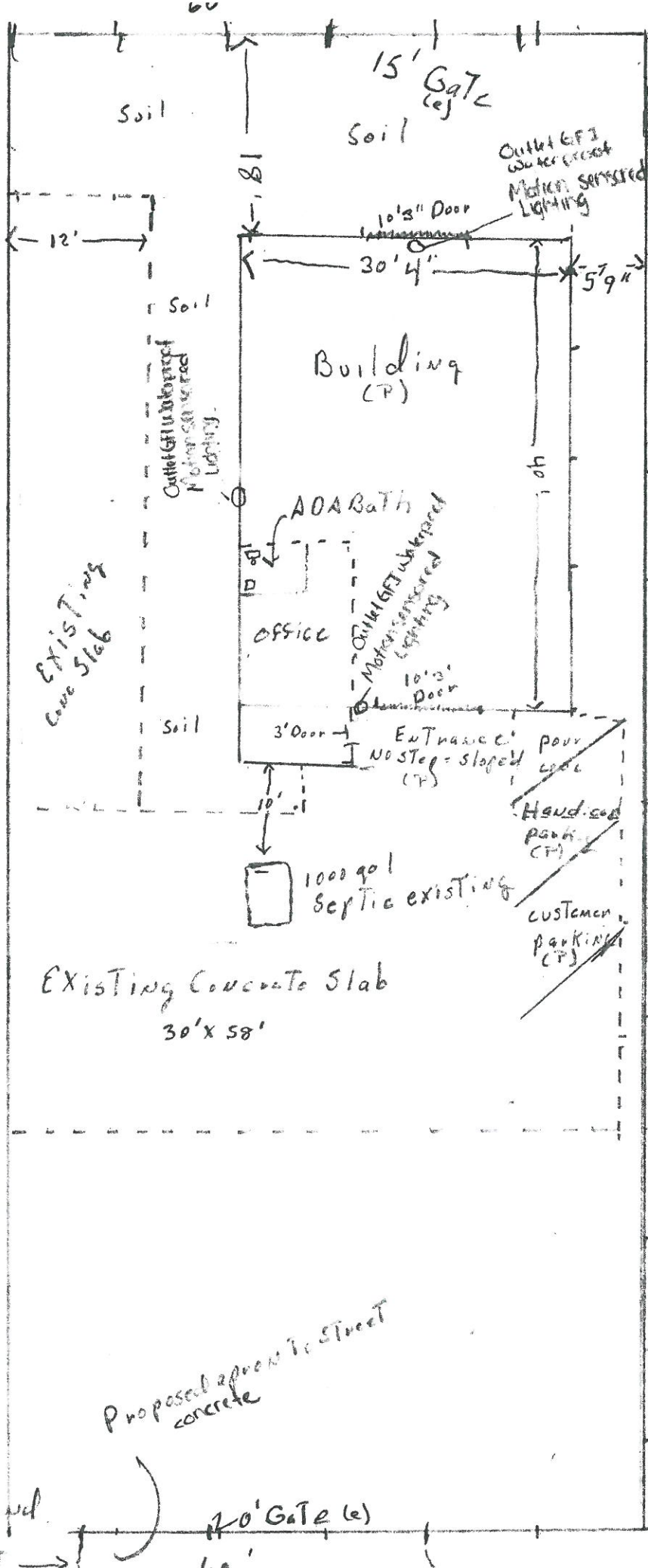
D) Building Height 17ft 8.5 in.

E) 6' Chainlink fences surround property. Slatted on North side of property

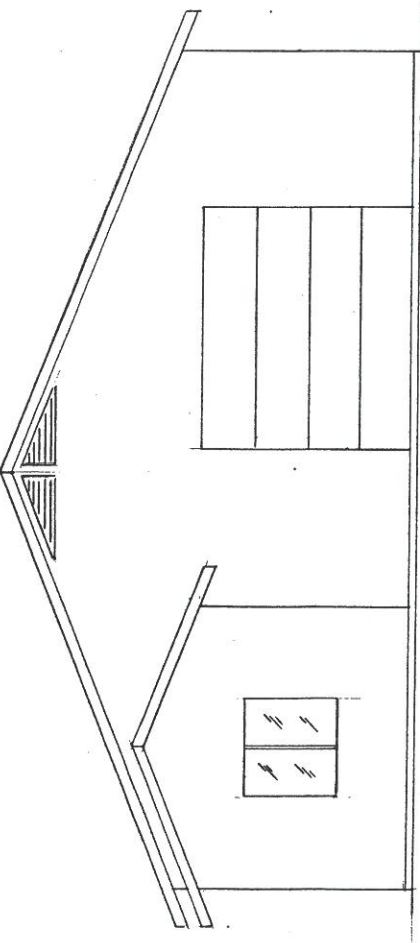
5th Street -
asphalt road
25 mph speed limit
50' width

setback 7'1"

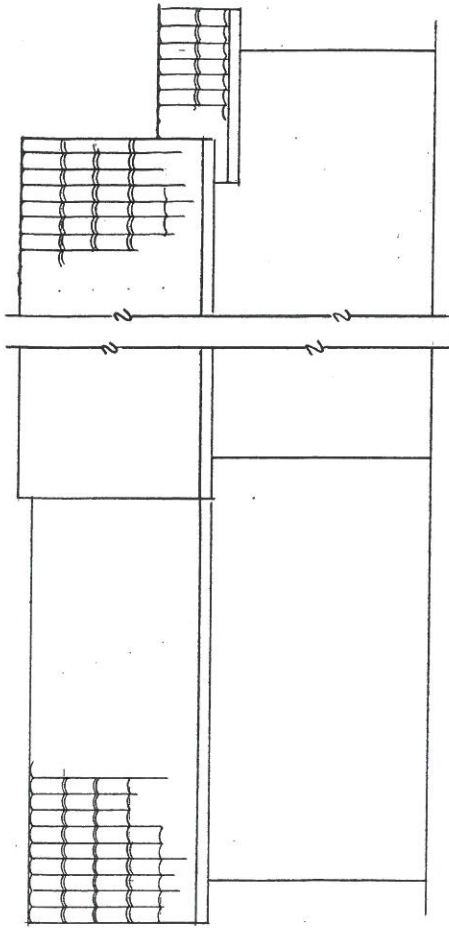
Drainage of entire lot towards 5th Street



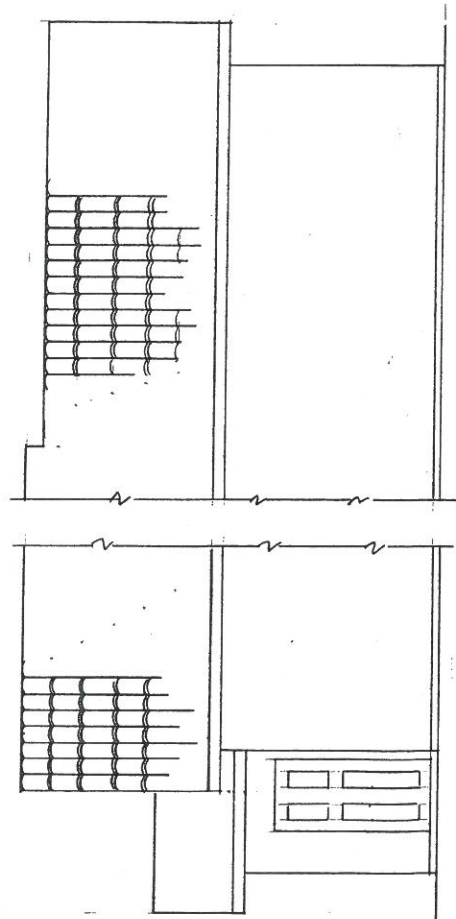
Tax Parcel
ID# 10714 BLOCK E
First Edition to the
town site of Fry
106-70-071
Scale C
10' = 3/4" 72



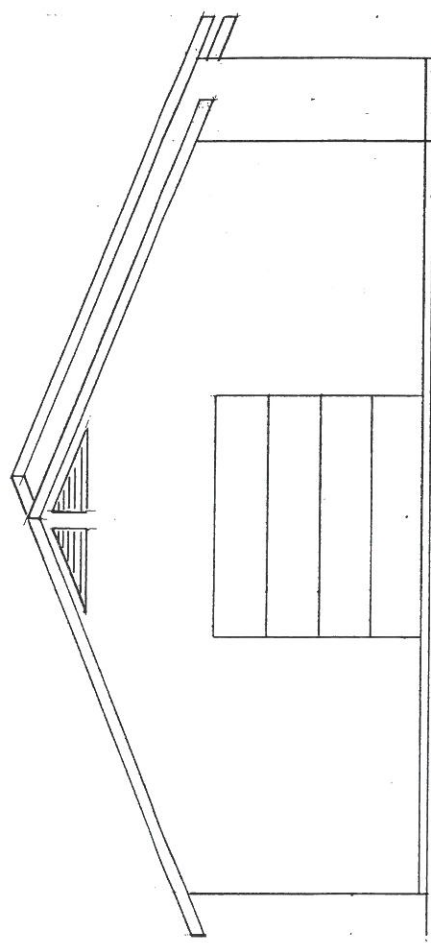
FRONT ELEVATION



LEFT SIDE ELEVATION



RIGHT SIDE ELEVATION



BACK ELEVATION



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. Community Development Director

MEMORANDUM

TO: Keith Dennis, Planner II

FROM: Karen L. Lamberton, County Transportation Planner

SUBJECT: Hannon Rezoning to GB: Z-11-07\Parcel #106-70-072A

DATE: July 18, 2011

The applicant is applying to rezone his parcel from MH-72 to GB in order to construct a 1,216 square foot plumbing shop on the property. The site is located with the Fry enclave with the City of Sierra Vista. Access is taken from Highway 90 to 5th St., a county-maintained, chip-sealed urban collector with a 24-foot cross-section. 60 feet of Right-of-Way has been dedicated per Map and Plat Book 3, page 127.

Currently the site could place one single mobile home unit with a potential trip generation averaging just under 10 trips per day. The proposed use as a plumbing shop could potentially have a range between 8 to 65 trips per day based on equivalent land use per the ITE Manual, 8th edition. Based on the size of the proposed operation trip generation is likely to be on the lower end of this range and have a minimal impact on peak hour travel patterns in the area. There may be a slight increase in the number of delivery trucks providing supplies to the site. Although this proposed rezoning is likely to produce more traffic than the current use that impact is expected to be minimal on the roadway network.

Recommendation

Land use changes do not, in and of themselves, change traffic patterns; however, they do create conditions for future transportation impacts. This re-zoning proposal is compatible with the surrounding area and transportation infrastructure and we have no objection to the requested re-zoning.

This site was only analyzed for the proposed use and not for the full range of potential GB uses. Should this proposal change to more intensive uses resulting in heavier impacts on county-maintained roads mitigation may be required at the permitting stage appropriate to the final site development plans.

At the commercial permitting stage the applicant will be required to provide a hard-surfaced commercial access apron per the Cochise County Road Design and Construction Specifications prior to operation. The applicant is advised to contact the County's Highway and Floodplain Department at 520.432.9300 to obtain a Right-of-Way/Encroachment Permit as well as obtain the appropriate design standards, including any needed culverts/drainage structures, for the proposed commercial driveway onto 5th Ave.

cc: Docket Z-11-07

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74

YOU ARE INVITED TO SUBMIT COMMENTS ON OUR REQUEST TO CHANGE THE USE OF OUR PROPERTY FROM RESIDENTIAL USE TO COMMERCIAL USE

- Project Location: 110 N 5th St., Sierra Vista, AZ 85635
- Project Description and Details:
 - We want to build an office and shop combination for our small, locally owned plumbing business on the existing lot
 - Our plumbing trucks will enter and exit from the existing gate located at 110 N 5th St.
 - A concrete apron from the street to the gate will be poured to keep dust down
 - Lot has an existing 6' chain link fence
 - Our typical working hours will be from 7am - 5pm.
 - We anticipate parking for 1 handicap and 1 standard space
 - Please see attached drawing of the proposed office and shop combination as well as the site plan. Final construction may vary some from the drawing attached, but we hope this will give you a good idea of what we are planning on building. It will be approximately 1,400 square feet.
- Please note this affects the zoning of our lot only. it does not affect the zoning of your property.

We would be happy to meet with you if you have any questions on the proposed changes. Please let us know by June 23rd , 2011.

Your input is very important to us.

To make sure your questions are answered:

- Submit written comments to: Robert Hannon
25 W Tacoma St.
Sierra Vista, AZ 85635
- Email comments to: newmountainplumbing@hotmail.com
- To talk to a project representative call: (520) 266-3278

75 F

SPECIAL USE: Docket Z-11-07 (Hannon)

☒ YES, I SUPPORT THIS REQUEST

Please state your reasons: _____

☐ NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: _____

(Attach additional sheets, if necessary)

PRINT NAME(S): Kim Cherry _____

SIGNATURE(S): Kim Cherry _____

YOUR TAX PARCEL NUMBER: 106-70-070 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 100 N 5th St. _____

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 pubic 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 26 2011

PLANNING

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SPECIAL USE: Docket Z-11-07 (Hannon)

☒ YES, I SUPPORT THIS REQUEST

Please state your reasons:

Everything needs to be
GB in that area

☐ NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S):

MIKE SMEYER

SIGNATURE(S):

Mike Meyer

YOUR TAX PARCEL NUMBER: 106-70-69 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 100 N 5th St.

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 pubic 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 26 2011

PLANNING

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LEGAL NOTICE NOTICE OF PUBLIC HEARING

The Cochise County Planning and Zoning Commission hereby gives notice a public hearing will be held at or after 10:00 a.m., on Tuesday, September 27 2011, at the Cochise County Board of Supervisors Hearing Room, at 1415 Melody Lane, Building G, in Bisbee, Arizona, to consider the following:

Docket Z-11-07 (Hannon): The Applicant seeks to rezone an 8,400 square foot parcel of land (Parcel No. 106-70-072A) from MH-72 (Manufactured Home District, one dwelling per 7,200 square feet) to GB (General Business), in order to facilitate a Contract Construction Services land use. The Applicant, Robert Hannon of New Mountain Plumbing, intends to construct a 1,216 square foot plumbing shop on the property and operate his business from the subject parcel.

It is located at 110 N. 5th Street in Sierra Vista. The property is further described as being in Section 34, Township 21 South, Range 20 East of the G&SRB&M in Cochise County, Arizona.

Applicant: Robert Hannon

Details of the above docket are on file in the Cochise County Planning Department and may be examined during office hours. Inquiries may be directed to Senior Planner Keith Dennis by calling 520-432-9240, or by email to kdennis@cochise.az.gov. All persons interested in said matter may appear at the public hearing and offer their input as to the content of the proposed amendments.

Dated September 1, 2011

Patrick Call, Chairman, Cochise County Board of Supervisors

Publish: *Bisbee Observer*

No later than September 8, 2011

7

ZONING ORDINANCE NO. 11-__

A ZONING ORDINANCE AMENDING CERTAIN ZONING DISTRICT BOUNDARIES FROM MH-72 TO GB, PURSUANT TO THE APPLICATION OF ROBERT HANNON.

WHEREAS, ARS § 11-829 allows property owners or their authorized agent to request amendments to the Zoning District boundaries through the Board of Supervisors in a public hearing;

WHEREAS, the Cochise County Board of Supervisors recognizes that zoning amendments can affect land use patterns and therefore warrant careful consideration of local and regional impacts at a public hearing;

WHEREAS, the Cochise County Board of Supervisors promotes effective, early and continuous public participation by citizens;

WHEREAS, the Planning and Zoning Commission held a duly noticed public hearing on the proposed amendments to the Zoning District boundaries, hereby known as Docket Z-11-07;

WHEREAS, the Board of Supervisors held a duly noticed public hearing on the amendments to the Zoning District boundaries proposed by Robert Hannon; and

WHEREAS, the Board of Supervisors conditionally approved the request for a change in the Zoning District boundaries,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF COCHISE COUNTY ARIZONA, THAT THE COCHISE COUNTY ZONING DISTRICT BOUNDARIES SHALL BE AMENDED AS FOLLOWS:

The zoning classification for Tax Parcel 106-70-072A, as shown on the map attached to this Resolution as Exhibit A, is changed from MH-72 to GB. The property is located at 110 N. 5th Street in Sierra Vista, AZ.

Board of Supervisors approval of Docket Z-11-07 is subject to the following conditions:

1. The Applicant shall provide the County a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the subject property within thirty (30) days of Board of Supervisors approval of the rezoning.
2. The Applicant shall obtain a building permit within one year of Board of Supervisors approval of the rezoning, otherwise the rezoning approval shall be deemed null and void, and the property shall revert to the MH-72 Zoning District.
3. Prior to issuance of a certificate of occupancy for the Contract Construction Services operation, the Applicant shall obtain a right-of-way permit from the County Highway Department, and construct a commercial apron for access to the 5th Street road travelway that meets County standards.

4. 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.

PASSED AND ADOPTED BY THE BOARD OF SUPERVISORS OF COCHISE COUNTY,
ARIZONA, THIS 27th DAY OF SEPTEMBER, 2011.

PATRICK CALL, Chairman

ATTEST:

APPROVED AS TO FORM:

KATIE HOWARD
Clerk of the Board

BRITT HANSON
Deputy County Attorney

Docket Z-11-07

A Request to Rezone from MH-72 to GB.

Planning and Zoning Commission

August 10, 2011

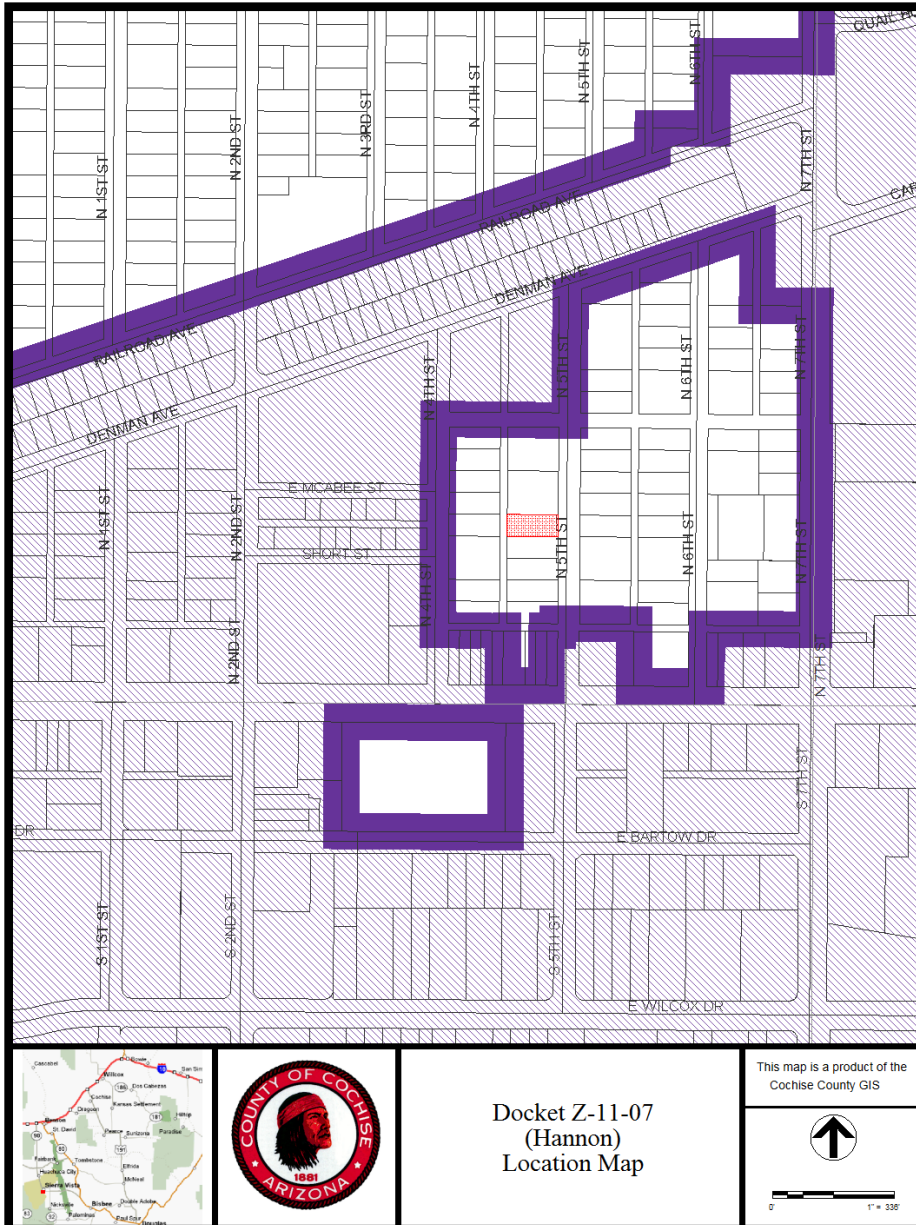


Docket Z-11-07 (Hannon)

- ❑ The Applicant seeks to rezone an 8,400 square foot parcel of land 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.
- ❑ The subject parcel, 106-70-072A, is located at 110 South 5th Street in Sierra Vista, AZ.



Location

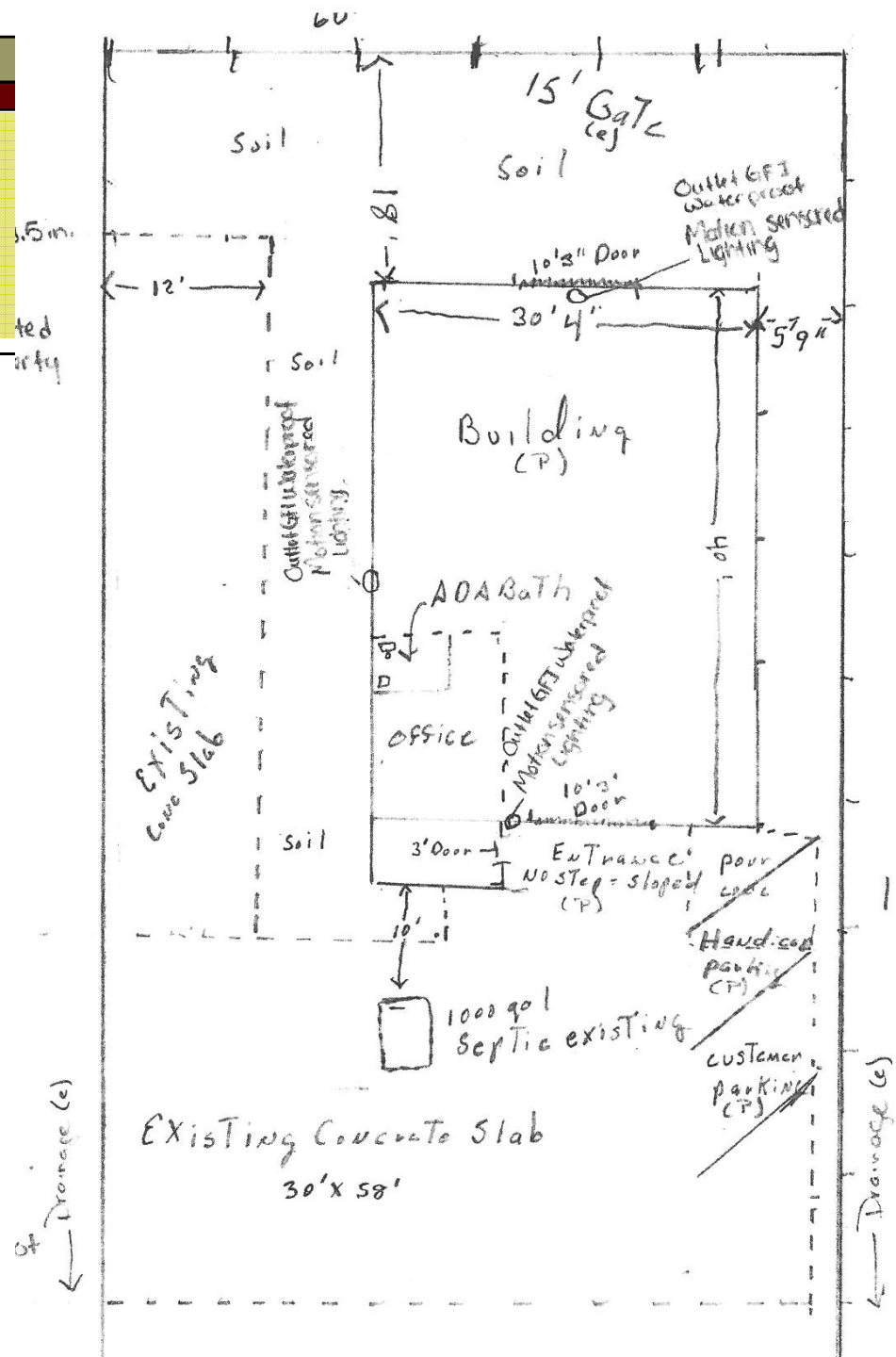


ksenns 2011-07-06 10:13:14
(\\ccapm32\Geodesy\Encompass\Admin\Meta\View.MXD)

This document is a graphic representation only of best available sources.
Cochise County assumes no responsibility for any errors.



Concept Plan



Site Photos



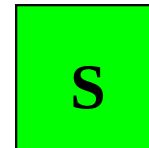
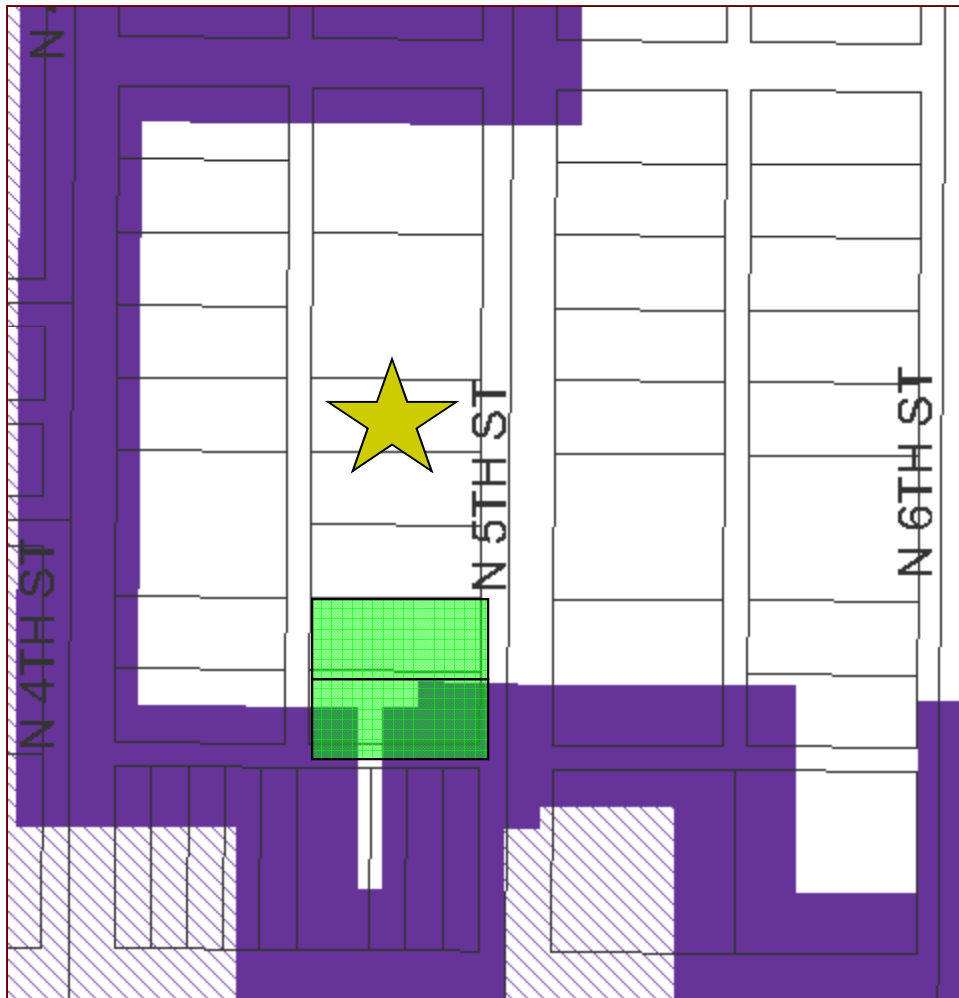
Site Photos



Site Photos



Public Support



2

Staff received two letters of support for the project.



Factors in Favor of Approval

1. The project site is designated as an Enterprise Redevelopment area on the Cochise County Comprehensive Plan, and as a heavy commercial use, the operation is in keeping with the policies regarding appropriate development in the area;
2. With the recommended conditions, the rezoning request complies with 12 of the 13 rezoning factors;
3. Two neighbors have expressed support in writing for the request.



Factor Against Approval

1. While the change in land use facilitated by the rezoning would not of itself create any nonconformance, the 60-foot width of the lot combined with the required 40-foot setback to the adjacent MH-72 District to the South would create the conditions for a non-conforming structure.





Recommendation: Conditional Approval

1. The Applicant shall provide the County a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the subject property within thirty (30) days of Board of Supervisors approval of the rezoning.
2. The Applicant shall obtain a building permit within one year of Board of Supervisors approval of the rezoning, otherwise the rezoning approval shall be deemed null and void, and the property shall revert to the MH-72 Zoning District.



Recommendations (Continued)

3. Prior to issuance of a certificate of occupancy for the Contract Construction Services operation, the Applicant shall obtain a right-of-way permit from the County Highway Department, and construct a commercial apron for access to the 5th Street road travelway that meets County standards.
4. 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.



Regular Board of Supervisors Meeting**Elections and Special Districts****Date:** 09/27/2011**Elections Technician****Submitted By:** Martha Domann, Elections &
Special Districts**Department:** Elections & Special Districts**Presentation:** No A/V Presentation**Recommendation:** Approve**Document Signatures:** BOS Signature Required**# of ORIGINALS** 3**Submitted for Signature:****NAME**
of PRESENTER: n/a**TITLE**
of PRESENTER: n/a**Mandated Function?:** Not Mandated**Source of Mandate**
or Basis for Support?:**Docket Number (If applicable):****Agenda Item Text:**

Adopt Resolution 11-45 cancelling the Bowie Fire District Special Governing Board Election of November 8, 2011 for three (3) board seats up for election and appointing the one (1) candidate (Debra Juarez) who filed to run in the election to fill one (1) of the three (3) open board positions with all the powers and duties of that office as if elected to that office, effective the 1st day of December, 2011 and declaring the other two (2) open board positions vacant effective the 1st day of December, 2011.

Background:

On April 12, 2011, the Cochise County Board of Supervisors appointed Tom Schelling to serve as Administrator of the Bowie Fire District because the governing board had insufficient members to fulfill its duties. A special election was scheduled to be held on November 8, 2011 for the purpose of electing three (3) board members. On August 10, 2011, only one candidate filed to run for election. Pursuant to A.R.S. § 48-802 (D)(4), in the event that only one person submits a petition for an election to each position on the board of directors of a fire district, the Board of Supervisors may cancel the election for that position and appoint the person who filed a nomination petition to fill the position. Since only one person (Debra Juarez) filed petitions for the election to the Fire District Board, the Board will still have insufficient members to fulfill its duties and, thus, Mr. Schelling will continue to act as administrator. Nevertheless, the County Attorney advises that we must still follow the procedure for cancelling the election and appointing Ms. Juarez to the Fire District Board. If Mr. Schelling can find others who are willing to serve on the Fire District Board he has the authority to appoint them. Mr. Schelling would then resign as administrator and the Fire District would once again be governed by a Board.

Department's Next Steps (if approved):

Tom Schelling will continue to be the Administrator of the Bowie Fire District until such time as he appoints 2 new board members.

Impact of NOT Approving/Alternatives:

If not approved the Election will have to go forward and there are not enough candidates.

To BOS Staff: Document Disposition/Follow-Up:

Three original Resolutions required; return two signed originals to Elections.

Fiscal Impact

Fiscal Year:

One-time Fixed Costs? (\$\$\$):

Ongoing Costs? (\$\$\$):

County Match Required? (\$\$\$):

A-87 Overhead Amt? (Co. Cost Allocation \$\$\$):

Source of Funding?:

Fiscal Impact & Funding Sources (if known):

NONE

Attachments

Resolution to cancell and appt

RESOLUTION 11-__

CANCELLING THE BOWIE FIRE DISTRICT BOARD ELECTION AND APPOINTING THE ONE CANDIDATE WHO FILED TO RUN FOR 1 BOARD SEAT UP FOR ELECTION AND DECLARING A VACANCY IN THE REMAINING 2 POSITIONS

WHEREAS, in accordance with the provisions of Arizona Revised Statute § 16-226, the Bowie Fire District called for a special election for 3 board seat to be held November 8, 2011; and

WHEREAS, on August 10, 2011, the date set pursuant to A.R.S. § 16-311B, one candidate filed for one of the three seats up for election on the Bowie Fire District Board; and

WHEREAS, pursuant to A.R.S. § 48-802(D)(4), if no person files a nomination petition for an election to fill a district office, the Board may cancel the election for that office and declare it vacant, to be filled as otherwise provided by law; and

WHEREAS, pursuant to A.R.S. § 48-802 (D)(4), in the event that only one person submits a petition for an election to each position on the board of directors of a fire district, the Board of Supervisors may cancel the election for that position and appoint the person who filed a nomination petition to fill the position; and

WHEREAS, pursuant to A.R.S. § 16-312 (B)(2), a candidate running as a write-in for an election that may be canceled pursuant to A.R.S. § 48-802 shall file the nomination paper no later than 5:00 pm on August 24, 2011,

NOW, THEREFORE, BE IT RESOLVED that the Bowie Fire District Board Election scheduled for November 8, 2011 is hereby canceled.

FURTHER BE IT RESOLVED that, upon such provisional cancellation, Debra Juarez is hereby appointed to fill one of the three open board positions on

RESOLUTION 11

Re: Cancel and Appoint – Bowie Fire District (2011)

Page 2

the Bowie Fire District Board, with all the powers and duties of that office as if elected to that office, effective the 1st day of December, 2011; and that the other open board positions are hereby declared vacant, effective the 1st day of December, 2011, to be filled by the board members at that time.

PASSED AND ADOPTED THIS 27th day of September, 2011

Patrick G. Call, Chairman
Cochise County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Katie A. Howard,
Clerk of the Board

Britt Hanson
Chief Civil Deputy County Attorney

Regular Board of Supervisors Meeting

Date: 09/27/2011

Demands & Operating Transfers

Submitted By: Arlethe Rios, Board of Supervisors

Department: Board of Supervisors

Presentation: No A/V Presentation

Document Signatures:

NAME n/a

of PRESENTER:

Mandated Function?:

Recommendation:

of ORIGINALS

Submitted for Signature:

TITLE n/a

of PRESENTER:

**Source of Mandate
or Basis for Support?:**

Agenda Item Text:

Approve demands and budget amendments for operating transfers.

Background:

Auditor-General's requirement for Board of Supervisors to approve.

Department's Next Steps (if approved):

Return to Finance after BOS approval.

Impact of NOT Approving/Alternatives:

Board of Supervisors will not be in compliance with State law.

To BOS Staff: Document Disposition/Follow-Up:

Return to Finance after BOS approval.

Regular Board of Supervisors Meeting

Date: 09/27/2011

Emergency Preparedness ADHS12-007884, Renewal

Submitted By: Jennifer Steiger, Health

Department: Health

Presentation: No A/V Presentation

Document Signatures: BOS Signature NOT Required

NAME of PRESENTER: n/a

Mandated Function?: Federal or State Mandate

Recommendation: Approve

of ORIGINALS 0

Submitted for Signature:

TITLE of PRESENTER: n/a

Source of Mandate or Basis for Support?: ADHS/CDC

REMINDER: You will use this Agenda Item template if your item involves a Grant (whether a new or renewal grant). You also must attach the Grant Approval Form to the item before Finance will approve it. Select the SPECIAL LINKS on your left-hand menu and Click on "Grant Approval Form". Then complete the form, save it and attach it to your item (on the Attachments tab).

Agenda Item Text:

Approve the renewal to IGA# ADHS12-007884, Emergency Preparedness, between the Arizona Department of Health Services and the Cochise County Health Department, in the amount of \$201,596.61, for the period of 8/31/11 – 8/30/16.

Background:

This Emergency Preparedness Contract is for the Cooperative Agreement (PHEP) for the grant year beginning August 31, 2011 and ending August 30, 2016. New Purchase Orders will follow shortly. This new contract is an extension of the original contract number IGA #HG754193 between the Arizona Department of Health Services and Cochise County Health Department which was last ratified in April of 2007. The H1N1 funding, previously attached to this grant, has ceased, and the EWIDS portion of the Cooperative Agreement was not renewed. The overall funding cut to the PHEP (exclusive of the H1N1 funding) is 22% for the coming grant year.

Department's Next Steps (if approved):

Your approval is respectfully requested.

Impact of NOT Approving/Alternatives:

The Bioterrorism Preparedness Program will not be able to address and complete the associated Health Emergency Preparedness Deliverables for the budget year 2011-2012.

To BOS Staff: Document Disposition/Follow-Up:

A fully executed original will be sent to the Clerk of the Board for filing purposes.

Fiscal Impact

Fiscal Year: FY11/12

One-time Fixed Costs? (\$\$\$):

Ongoing Costs? (\$\$\$):

County Match Required? (\$\$\$): 78,350

A-87 Overhead Amt? (Co. Cost Allocation \$\$\$): 78,350

Source of Funding?: ADHS

Fiscal Impact & Funding Sources (if known):

Grant Title: PHEP

Contract #: ADHS 12-007884

Amount: \$201,596.61

Salaries + ERE's: \$160,453.88

Authorized Overhead: \$0 *

A-87 OH @48.83%: \$78,350

Net Co. Subsidy: \$78,350

* Overhead used to meet the required 10% soft match this grant year.

Attachments

BT 9-2011 Renewal IGA

COCHISE COUNTY GRANT APPROVAL FORM

Form Initiator: JENNIFER STEIGER

Department/Division: HEALTH/ADMIN.

Date Prepared: 9/9/11

Telephone: 520-432-9402

Grantor: ADHS

Grant Title: Emergency Preparedness

Grant Term From: 8/31/11

To: 8/30/16

Fund No/Dept. No: 222

Note: Fund No. will be assigned by the Finance Department if new.

New Grant ☐ Yes ☒ No Amendment No. _____ Increase \$ _____ Decrease \$ 22%

Briefly describe purpose of grant:

This IGA #ADHS12-007884 allows for the delivery of the Public Health Emergency Preparedness program to Cochise County.

If amendment, provide reason:

This is not an amendment, this is the standard 5 year renewal, with funding provided on an annual basis. Funding amounts may or may not be amended annually.

If this is a mandated service, cite source. If not mandated, cite indications of local customer support for this service:

This IGA is administered to counties within Arizona by the Arizona Department of Health Services on behalf of the CDC.

Funding Sources	Federal Funds 332.100	State Funds 336.100	County Funds 391.000	Other	Total
Current Fiscal Year		\$ 201,596.61			\$ 201,596.61
Remaining Years					
Total Revenue		\$ 201,596.61			\$ 201,596.61

Is County match required? ☐ Yes ☒ No If yes, dollar amount \$ _____

Has this amount been budgeted? ☒ Yes ☐ No Identify Funding Source: ADHS

Federal Catalog of Federal Domestic Assistance (CFDA) No: n/a

Method of collecting grant funds: Lump sum payment ☐ Quarterly payments ☐ Draw ☐ Reimbursement ☒

Is revertment of unexpended funds required at end of grant period? ☒ Yes ☐ No

a) Total A-87 cost allocation \$ 160,453.88

b) Amount of overhead allowed by grant \$ 0 County subsidy (a-b) \$ 78,350

Does Grantor accept indirect costs as an allowable expenditure? ☐ Yes ☒ No

If yes, dollar amount \$ 0 OR percentage allowed 0%

Number of new positions that will be funded from grant: 0 Number of existing positions funded from grant: 7

Executive Summary Form

Executive Summary Form

Agenda Number: HLT--

Recommendation:

Approve the renewal to IGA#: ADHS12-007884, Bioterrorism Preparedness, between the Arizona Department of Health Services and the Cochise County Health Department, in the amount of \$201,596.61, for the period of 8/31/11 – 8/30/16.

Background:

This Bioterrorism Preparedness Contract is for the Cooperative Agreement (PHEP) for the grant year beginning August 31, 2011 and ending August 30, 2016. New Purchase Orders will follow shortly. This new contract is an extension of the original contract number IGA #HG754193 between the Arizona Department of Health Services and Cochise County Health Department which was last ratified in April of 2007. The H1N1 funding, previously attached to this grant, has ceased, and the EWIDS portion of the Cooperative Agreement was not renewed. The overall funding cut to the PHEP (exclusive of the H1N1 funding) is 22% for the coming grant year.

Fiscal Impact & Funding Sources:

Grant Title	Contract #	Amount	Salaries + ERE's	Authorized Overhead	A-87 OH @48.83%	Net Co. Subsidy
PHEP	ADHS 12-007884	\$201,596.61	\$160,453.88	\$0 *	\$78,350	\$78,350

* Overhead used to meet the required 10% soft match this grant year.

Next Steps/Action Items/Follow-up:

Your approval is respectfully requested.

Impact of Not Approving:

The Bioterrorism Preparedness Program will not be able to address and complete the associated Health Emergency Preparedness Deliverables for the budget year 2011-2012.



INTERGOVERNMENTAL AGREEMENT (IGA)

Contract No. ADHS12-007884

ARIZONA DEPARTMENT OF
HEALTH SERVICES
1740 West Adams, Room 303
Phoenix, Arizona 85007
(602) 542-1040
(602) 542-1741 FAX

Project Title: Emergency Preparedness

Begin Date: 8/31/11

Geographic Service Area: Arizona

Termination Date: 8/30/16

Arizona Department of Health Services has authority to contract for services specified herein in accordance with A.R.S. §§ 11-951, 11-952, 36-104 and 36-132. The Contractor represents that it has authority to contract for the performance of the services provided herein pursuant to:

☒ Counties: A.R.S. §§ 11-201, 11-951, 11-952 and 36-182.
☐ Indian Tribes: A.R.S. §§ 11-951, 11-952 and the rules and sovereign authority of the contracting Indian Nation.
☐ School Districts: A.R.S. §§ 11-951, 11-952, and 15-342.
☐ City of Phoenix: Chapter II, §§ 1 & 2, Charter, City of Phoenix.
☐ City of Tempe: Chapter 1, Article 1, §§ 1.01 & 1.03, Charter, City of Tempe.

Amendments signed by each of the parties and attached hereto are hereby adopted by reference as a part of this Contract, from the effective date of the Amendment, as if fully set out herein.

Arizona Transaction (Sales) Privilege: _____
Federal Employer Identification No.: _____
Tax License No.: _____
Contractor Name: Cochise County Health Department
Address: 1415 West Melody Lane, Building A
Bisbee, AZ 85603

FOR CLARIFICATION, CONTACT:

Name: Mary Gomez
Phone: 520-432-9609
FAX No: 520-432-9698

CONTRACTOR SIGNATURE:

The Contractor agrees to perform all the services set forth in the Agreement and Work Statement. In accordance with A.R.S. 35-391 06 and A.R.S. 35-393 06, the Contractor hereby certifies that the Contractor does not have scrutinized business operations in Sudan or Iran

Signature of Person Authorized to Sign _____ Date 8/31/11

Mary Gomez HEALTH DIRECTOR
Print Name and Title

This Contract shall henceforth be referred to as Contract

No. ADHS12-007884 The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this Contract until Contractor receives a fully executed copy of the Contract.

State of Arizona

Signed this _____ day of _____, 2011

CONTRACTOR ATTORNEY SIGNATURE:

Pursuant to A.R.S. § 11-952, the undersigned Contractor's Attorney has determined that this Intergovernmental Agreement is in proper form and is within the powers and authority granted under the laws of Arizona

Signature of Person Authorized to Sign _____ Date 8/26/11

Terry Benson DLA
Print Name and Title

Procurement Officer

RESERVED FOR USE BY THE SECRETARY OF STATE

Under House Bill 2011, A.R.S. § 11-952 was amended to remove the requirement that Intergovernmental Agreements be filed with the Secretary of State.

Attorney General Contract, No. PIGA2011000344, which is an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Assistant Attorney General, who has determined that it is in the proper form and is within the powers granted under the laws of the State of Arizona to those parties to the Agreement represented by the Attorney General

The Attorney General, BY:

Signature _____ Date _____
Assistant Attorney General: Ronald E. Johnson

Contract Number	INTERGOVERNMENTAL AGREEMENT
ADHS12-007884	TERMS AND CONDITIONS

1. **Definition of Terms.** As used in this Contract, the terms listed below are defined as follows:

- 1.1 "Attachment" means any document attached to the Contract and incorporated into the Contract
- 1.2 "ADHS" means Arizona Department of Health Services
- 1.3 "Budget Term" means the period of time for which the contract budget has been created and during which funds should be expended
- 1.4 "Change Order" means a written order that is signed by a Procurement Officer and that directs the Contractor to make changes authorized by the Uniform Terms and Conditions of the Contract
- 1.5 "Contract" means the combination of the Uniform and Special Terms and Conditions, the Specifications and Statement or Scope of Work, Attachments, Referenced Documents, any Contract Amendments and any terms applied by law
- 1.6 "Contract Amendment" means a written document signed by the Procurement Officer and the Contractor that is issued for the purpose of making changes in the Contract.
- 1.7 "Contractor" means any person who has a Contract with the Arizona Department of Health Services.
- 1.8 "Cost Reimbursement" means a contract under which a contractor is reimbursed for costs, which are reasonable, allowable and allocable in accordance with the contract terms and approved by ADHS.
- 1.9 "Days" means calendar days unless otherwise specified
- 1.10 "Fixed Price" establishes a set price per unit of service. The set price shall be based on costs, which are reasonable, allowable and allocable.
- 1.11 "Gratuity" means a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received
- 1.12 "Materials" unless otherwise stated herein, means all property, including but not limited to equipments, supplies, printing, insurance and leases of property
- 1.13 "Procurement Officer" means the person duly authorized by the State to enter into and administer Contracts and make written determinations with respect to the Contract
- 1.14 "Purchase Order" means a written document that is signed by a Procurement Officer, that requests a vendor to deliver described goods or services at a specific price and that, on delivery and acceptance of the goods or services by ADHS, becomes an obligation of the State.
- 1.15 "Services" means the furnishing of labor, time or effort by a Contractor or Subcontractor
- 1.16 "Subcontract" means any contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or any service required for the performance of this Contract
- 1.17 "State" means the State of Arizona and/or the ADHS. For purposes of this Contract, the term "State" shall not include the Contractor

Contract Number	INTERGOVERNMENTAL AGREEMENT
ADHS11-007884	TERMS AND CONDITIONS

2 Contract Type.

This Contract shall be: (check one)

☐ Fixed Price
☒ Cost Reimbursement
☐ Not to Exceed

3 Contract Interpretation.

- 3.1 Arizona Law. The law of Arizona applies to this Contract including, where applicable, the Uniform Commercial Code as adopted by the State of Arizona.
- 3.2 Implied Contract Terms. Each provision of law and any terms required by law to be in this Contract are a part of this Contract as if fully stated in it.
- 3.3 Contract Order of Precedence. In the event of a conflict in the provisions of the Contract, as accepted by the State and as they may be amended, the following shall prevail in the order set forth below:
- 3.3.1 Terms and Conditions;
 - 3.3.2 Statement or Scope of Work;
 - 3.3.3 Attachments;
 - 3.3.4 Referenced Documents
- 3.4 Relationship of Parties. The Contractor under this Contract is an independent Contractor. Neither party to this Contract shall be deemed to be the employee or agent of the other party to the Contract.
- 3.5 Severability. The provisions of this Contract are severable. Any term or condition deemed illegal or invalid shall not affect any other term or condition of the Contract.
- 3.6 No Parole Evidence. This Contract is intended by the parties as a final and complete expression of their agreement. No course of prior dealings between the parties and no usage of the trade shall supplement or explain any terms used in this document.
- 3.7 No Waiver. Either party's failure to insist on strict performance of any term or condition of the Contract shall not be deemed a waiver of that term or condition even if the party accepting or acquiescing in the nonconforming performance knows of the nature of the performance and fails to object to it.
- 3.8 Headings. Headings are for organizational purposes only and shall not be interpreted as having legal significance or meaning.

4. Contract Administration and Operation.

- 4.1 Term. As indicated on the signature page of the Contract, the Contract shall be effective as of the Begin Date and shall remain effective until the Termination Date.
- 4.2 Contract Renewal. This Contract shall not bind, nor purport to bind, the State for any contractual commitment in excess of the original Contract period. The term of the Contract shall not exceed five years. However, if the original Contract period is for less than five years, the State shall have the right, at its sole option, to renew the Contract, so long as the original Contract period together with the renewal periods does not exceed five years. If the State exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the exception of price and Scope of Work, which may be renegotiated.

Contract Number	INTERGOVERNMENTAL AGREEMENT
ADHS11-007884	TERMS AND CONDITIONS

- 4.3 New Budget Term. If a budget term has been completed in a multi-term Contract, the parties may agree to change the amount and type of funding to accommodate new circumstances in the next budget term. Any increase or decrease in funding at the time of the new budget term shall coincide with a change in the Scope of Work or change in cost of services as approved by the Arizona Department of Health Services.
- 4.4 Non-Discrimination. The Contractor shall comply with State Executive Order No. 2009-09 and all other applicable Federal and State laws, rules and regulations, including the Americans with Disabilities Act.
- 4.5 Records and Audit. Under A.R.S. § 35-214 and A.R.S. § 35-215, the Contractor shall retain and shall contractually require each subcontractor to retain all data and other records ("records") relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract. All records shall be subject to inspection and audit by the State and where applicable the Federal Government at reasonable times. Upon request, the Contractor shall produce a legible copy of any or all such records.
- 4.6 Financial Management. For all contracts, the practices, procedures, and standards specified in and required by the Accounting and Auditing Procedures Manual for the ADHS funded programs shall be used by the Contractor in the management of Contract funds and by the State when performing a Contract audit. Funds collected by the Contractor in the form of fees, donations and/or charges for the delivery of these Contract services shall be accounted for in a separate fund.
- 4.6.1 Federal Funding. Contractors receiving federal funds under this Contract shall comply with the certified finance and compliance audit provision of the Office of Management and Budget (OMB) Circular A-133, if applicable. The federal financial assistance information shall be stated in a Change Order or Purchase Order.
- 4.6.2 State Funding. Contractors receiving state funds under this Contract shall comply with the certified compliance provisions of A.R.S. § 35-181.03.
- 4.7 Inspection and Testing. The Contractor agrees to permit access, at reasonable times, to its facilities.
- 4.8 Notices. Notices to the Contractor required by this Contract shall be made by the State to the person indicated on the signature page by the Contractor, unless otherwise stated in the Contract. Notices to the State required by the Contract shall be made by the Contractor to an ADHS Procurement Officer, unless otherwise stated in the Contract. An authorized ADHS Procurement Officer and an authorized Contractor representative may change their respective person to whom notice shall be given by written notice, and an amendment to the Contract shall not be necessary.
- 4.9 Advertising and Promotion of Contract. The Contractor shall not advertise or publish information for commercial benefit concerning this Contract without the prior written approval of an ADHS Procurement Officer.
- 4.10 Property of the State
- 4.10.1 Equipment. Except as provided below or otherwise agreed to by the parties, the title to any and all equipment acquired through the expenditure of funds received from the State shall remain the property of the State by and through the ADHS and, as such, shall remain under the sole direction, management and control of the ADHS. When this Contract is terminated, the disposition of all such property shall be determined by the ADHS. For Fixed Price contracts, when the Contractor provides the services/materials required by the Contract, any and all equipment purchased by the Contractor remains the property of the Contractor. All purchases of equipment need to be reported to the ADHS Office of Inventory Control.
- 4.10.2 Title and Rights to Materials. As used in this section, the term "Materials" means all products created or produced by the Contractor under this Contract, including, but not limited to: written and

Contract Number	INTERGOVERNMENTAL AGREEMENT
ADHS11-007884	TERMS AND CONDITIONS

electronic information, recordings, reports, research, research findings, conclusions, abstracts, results, software, data and any other intellectual property or deliverables created, prepared, or received by the Contractor in performance of this Contract. Contractor acknowledges that all Materials are the property of the State by and through the ADHS and, as such, shall remain under the sole direction, management and control of the ADHS. The Contractor is not entitled to a patent or copyright on these Materials and may not transfer a patent or copyright on them to any other person or entity. To the extent any copyright in any Materials may originally vest in the Contractor, the Contractor hereby irrevocably transfers to the ADHS, for and on behalf of the State, all copyright ownership. The ADHS shall have full, complete and exclusive rights to reproduce, duplicate, adapt, distribute, display, disclose, publish, release and otherwise use all Materials. The Contractor shall not use or release these Materials without the prior written consent of the ADHS. When this Contract is terminated, the disposition of all such Materials shall be determined by the ADHS. Further, the Contractor agrees to give recognition to the ADHS for its support of any program when releasing or publishing program Materials.

Notwithstanding the above, if the Contractor is a State agency, the following shall apply instead: It is the intention of ADHS and Contractor that all material and intellectual property developed under this Agreement be used and controlled in ways to produce the greatest benefit to the parties to this Contract and the citizens of the State of Arizona. As used in this paragraph, "Material" means all written and electronic information, recordings, reports, findings, research information, abstracts, results, software, data, discoveries, inventions, procedures and processes of services developed by the Contractor and any other materials created, prepared or received by the Contractor and subcontractors in performance of this Agreement. "Material" as used herein shall not include any pre-existing data, information, materials, discoveries, inventions or any form of intellectual property invented, created, developed or devised by Contractor (or its employees, subcontractors or agents) prior to the commencement of the services funded by this Agreement or that may result from Contractor's involvement in other service activities that are not funded by the Agreement.

Title and exclusive copyright to all Material shall vest in the State of Arizona, subject to any rights reserved on behalf of the federal government. As State agencies and instrumentalities, both ADHS and Contractor shall have full, complete, perpetual, irrevocable and non-transferable rights to reproduce, duplicate, adapt, make derivative works, distribute, display, disclose, publish and otherwise use any and all Material. The Contractor's right to use Material shall include the following rights: the right to use the Material in connection with its internal, non-profit research and educational activities, the right to present at academic or professional meetings or symposia and the right to publish in journals, theses, dissertations or otherwise of Contractor's own choosing. Contractor agrees to provide ADHS with a right of review prior to any publication or public presentation of the Material, and ADHS shall be entitled to request the removal of its confidential information or any other content the disclosure of which would be contrary to the best interest of the State of Arizona. Neither party shall release confidential information to the public without the prior expressly written permission of the other, unless required by the State public records statutes or other law, including a court order. Each party agrees to give recognition to the other party in all public presentations or publications of any Material, when releasing or publishing them.

In addition, ADHS and Contractor agree that any and all Material shall be made freely available to the public to the extent it is in the best interest of the State. However, if either party wants to license or assign an intellectual property interest in the material to a third-party for monetary compensation, ADHS and Contractor agree to convene to determine the relevant issues of title, copyright, patent and distribution of revenue. In the event of a controversy as to whether the Material is being used for monetary compensation or in a way that interferes with the best interest of the state or ADHS, then the Arizona Department of Administration shall make the final decision. Notwithstanding the above, "monetary compensation" does not include compensation paid to an individual creator for traditional publications in academia (the copyrights to which are Employee-Excluded Works under ABOR Intellectual Property Policy Section 6-908C 4.), an honorarium or other reimbursement of expenses for an academic or professional presentation, or an unprofitable distribution of Material.

Contract Number	INTERGOVERNMENTAL AGREEMENT TERMS AND CONDITIONS
ADHS11-007884	

- 4.11 Federal Immigration and Nationality Act The Contractor shall comply with all federal, state and local immigration laws and regulations relating to the immigration status of their employees during the term of the Contract. Further, the Contractor shall flow down this requirement to all subcontractors utilized during the term of the Contract. The State shall retain the right to perform random audits of Contractor and subcontractor records or to inspect papers of any employee thereof to ensure compliance. Should the State determine that the Contractor and/or any subcontractors be found noncompliant, the State may pursue all remedies allowed by law, including, but not limited to; suspension of work, termination of the Contract for default and suspension and/or debarment of the Contractor.
- 4.12 E-Verify Requirements In accordance with A.R.S. § 41-4401, Contractor warrants compliance with all Federal immigration laws and regulations relating to employees and warrants its compliance with Section A.R.S. § 23-214, Subsection A.
- 4.13 Scrutinized Businesses In accordance with A.R.S. § 35-391 and A.R.S. § 35-393, Contractor certifies that the Contractor does not have scrutinized business operations in Sudan or Iran.

5. Costs and Payments

- 5.1 Payments Payments shall comply with the requirements of A.R.S. Titles 35 and 41, net 30 days. Upon receipt and acceptance of goods or services, the Contractor shall submit a complete and accurate Contractor's Expenditure Report for payment from the State within thirty (30) days, as provided in the Accounting and Auditing Procedures Manual for the ADHS.
- 5.2 Recoupment of Contract Payments
- 5.2.1 Unearned Advanced Funds Any unearned State funds that have been advanced to the Contractor and remain in its possession at the end of each budget term, or at the time of termination of the Contract, shall be refunded to the ADHS within forty-five (45) days of the end of a budget term or of the time of termination.
- 5.2.2 Contracted Services In a fixed price contract, if the number of services provided is less than the number of services for which the Contractor received compensation, funds to be returned to the ADHS shall be determined by the Contract price. Where the price is determined by cost per unit of service or material, the funds to be returned shall be determined by multiplying the unit of service cost by the number of services the Contractor did not provide during the Contract term. Where the price for a deliverable is fixed, but the deliverable has not been completed, the Contractor shall be paid a pro rata portion of the completed deliverable. In a cost reimbursement contract, the ADHS shall pay for any costs that the Contractor can document as having been paid by the Contractor and approved by ADHS. In addition, the Contractor will be paid its reasonable actual costs for work in progress as determined by Generally Accepted Accounting Procedures up to the date of contract termination.
- 5.2.3 Refunds Within forty-five (45) days after the end of each budget term or of the time of termination of the Contract, the Contractor shall refund the greater of: i) the amount refundable in accordance with paragraph 4.2.1, Unearned Advanced Funds; or ii) the amount refundable in accordance with paragraph 5.2.2, Contracted Services.
- 5.2.4 Unacceptable Expenditures The Contractor agrees to reimburse the ADHS for all Contract funds expended, which are determined by the ADHS not to have been disbursed by the Contractor in accordance with the terms of this Contract. The Contractor shall reimburse ADHS within 45 days of the determination of unacceptability.
- 5.3 Unit Costs/Rates or Fees Unit costs/rates or fees shall be based on costs, which are determined by ADHS to be reasonable, allowable and allocable as outlined in the Accounting and Auditing Procedures Manual for the ADHS.
- 5.4 Applicable Taxes

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5.4.1 State and Local Transaction Privilege Taxes The State of Arizona is subject to all applicable state and local transaction privilege taxes. Transaction privilege taxes apply to the sale and are the responsibility of the seller to remit. Failure to collect taxes from the buyer does not relieve the seller from its obligation to remit taxes.

5.4.2 Tax Indemnification The Contractor and all subcontractors shall pay all federal, state and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold the State harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal, and/or state and local laws and regulations and any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

5.4.3 I.R.S. W9 Form In order to receive payment under any resulting Contract, the Contractor shall have a current I.R.S. W9 Form on file with the State of Arizona.

5.5 Availability of Funds for the Next Fiscal Year Funds may not be presently available for performance under this Contract beyond the first year of the budget term or Contract term. The State may reduce payments or terminate this Contract without further recourse, obligation or penalty in the event that insufficient funds are appropriated in the subsequent budget term. The State shall not be liable for any purchases or Subcontracts entered into by the Contractor in anticipation of such funding. The Procurement Officer shall have the discretion in determining the availability of funds.

5.6 Availability of Funds for the Current Contract Term Should the State Legislature enter back into session and decrease the appropriations through line item or general fund reductions, or for any other reason these goods or services are not funded as determined by ADHS, the following actions may be taken by ADHS:

5.6.1 Accept a decrease in price offered by the Contractor;

5.6.2 Reduce the number of goods or units of service and reduce the payments accordingly;

5.6.3 Offer reductions in funding as an alternative to Contract termination; or

5.6.4 Cancel the Contract

6 Contract Changes

6.1 Amendments, Purchase Orders and Change Orders This Contract is issued under the authority of the Procurement Officer who signed this Contract. The Contract may be modified only through a Contract Amendment, Purchase Order and/or Change Order within the scope of the Contract, unless the change is administrative or otherwise permitted by the Special Terms and Conditions. Changes to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by an unauthorized State employee or made unilaterally by the Contractor are violations of the Contract and of applicable law. Such changes, including unauthorized Contract Amendments, Purchase Orders and/or Change Orders, shall be void and without effect, and the Contractor shall not be entitled to any claim under this Contract based on those changes.

6.2 Subcontracts The Contractor shall not enter into any subcontract under this Contract without the advance written approval of the Procurement Officer. The subcontract shall incorporate by reference all material and applicable terms and conditions of this Contract.

6.3 Assignments and Delegation The Contractor shall not assign any right nor delegate any duty under this Contract without the prior written approval of the Procurement Officer. The State shall not unreasonably withhold approval.

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7 Risk and Liability

- 7.1 Risk of Loss. The Contractor shall bear all loss of conforming material covered under this Contract until received and accepted by authorized personnel at the location designated in the Purchase Order, Change Order or Contract. Mere receipt does not constitute final acceptance. The risk of loss for nonconforming materials shall remain with the Contractor regardless of receipt.
- 7.2 Mutual Indemnification. Each party (as "indemnitor") agrees to indemnify, defend and hold harmless the other party (as "indemnitee") from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) (hereinafter collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims, which result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees or volunteers.
- 7.3 Indemnification - Patent and Copyright. To the extent permitted by A.R.S. § 41-621 and A.R.S. § 35-154, the Contractor shall indemnify and hold harmless the State against any liability, including costs and expenses, for infringement of any patent, trademark or copyright arising out of performance of the Contract or use by the State of materials furnished by or work performed under this Contract. The State shall reasonably notify the Contractor of any claim for which it may be liable under this paragraph.
- 7.4 Force Majeure.
- 7.4.1 Liability and Definition. Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of force majeure. The term "*force majeure*" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Without limiting the foregoing, force majeure includes acts of God; acts of the public enemy; acts of terrorism; war; riots; strikes; mobilization; labor disputes; civil disorders; fire; flood; lockouts; injunctions-interventions not caused by or resulting from the act or failure to act of the parties; failures or refusals to act by government authority not caused by or resulting from the act or failure to act of the parties; and other similar occurrences beyond the control of the party declaring force majeure, which such party is unable to prevent by exercising reasonable diligence.
- 7.4.2 Exclusions. Force Majeure shall not include the following occurrences:
- 7.4.2.1 Late delivery of Materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market;
- 7.4.2.2 Late performance by a subcontractor unless the delay arises out of a force majeure occurrence in accordance with this force majeure term and condition; or
- 7.4.2.3 Inability of either the Contractor or any subcontractor to acquire or maintain any required insurance, bonds, licenses or permits
- 7.4.3 Notice. If either party is delayed at any time in the progress of the work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practicable and no later than the following working day of the commencement thereof, and shall specify the causes of such delay in such notice. Such notice shall be delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by Contract Amendment for a period of time equal to the time that the results or effects of such delay prevent the delayed party from performing in accordance with this Contract.
- 7.4.4 Default. Any delay or failure in performance by either party hereto shall not constitute default hereunder or give rise to any claim for damages or loss of anticipated profits if, and to the extent

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that, such delay or failure is caused by force majeure

7.5 Third Party Antitrust Violations. The Contractor assigns to the State any claim for overcharges resulting from antitrust violations to the extent that those violations concern materials or services supplied by third parties to the Contractor for or toward the fulfillment of this Contract.

8. **Description of Materials** The following provisions shall apply to Materials only:

8.1 Liens. The Contractor agrees that the Materials supplied under this Contract are free of liens. In the event the Materials are not free of liens, Contractor shall pay to remove the lien and any associated damages or replace the Materials with Materials free of liens.

8.2 Quality. Unless otherwise modified elsewhere in these terms and conditions, the Contractor agrees that, for one year after acceptance by the State of the Materials, they shall be:

8.2.1 Of a quality to pass without objection in the Contract description;

8.2.2 Fit for the intended purposes for which the Materials are used;

8.2.3 Within the variations permitted by the Contract and are of even kind, quantity, and quality within each unit and among all units;

8.2.4 Adequately contained, packaged and marked as the Contract may require; and

8.2.5 Conform to the written promises or affirmations of fact made by the Contractor.

8.3 Inspection/Testing. Subparagraphs 8.1 through 8.2 of this paragraph are not affected by inspection or testing of or payment for the Materials by the State.

8.4 Compliance With Applicable Laws. The Materials and services supplied under this Contract shall comply with all applicable federal, state and local laws, and the Contractor shall maintain all applicable license and permit requirements.

8.5 Survival of Rights and Obligations After Contract Expiration and Termination.

8.5.1 *Contractor's Representations*. All representations and warranties made by the Contractor under this Contract in paragraphs 7 and 8 shall survive the expiration or termination hereof. In addition, the parties hereto acknowledge that pursuant to A.R.S. § 12.510, except as provided in A.R.S. § 12-529, the State is not subject to or barred by any limitations of actions prescribed in A.R.S. Title 12, Chapter 5.

8.5.2 *Purchase Orders and Change Orders*. Unless otherwise directed in writing by the Procurement Officer, the Contractor shall fully perform and shall be obligated to comply with all Purchase Orders and Change Orders received by the Contractor prior to the expiration or termination hereof, including, without limitation, all Purchase Orders and Change Orders received prior to but not fully performed and satisfied at the expiration or termination of this Contract.

9. **State's Contractual Remedies**

9.1 Right to Assurance. If the State, in good faith, has reason to believe that the Contractor does not intend to, or is unable to, perform or continue performing under this Contract, the Procurement Officer may demand in writing that the Contractor give a written assurance of intent to perform. Failure by the Contractor to provide written assurance within the number of Days specified in the demand may, at the State's option, be the basis for terminating the Contract.

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9.2 Stop Work Order

9.2.1 Terms. The State may, at any time, by written order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for a period up to ninety (90) Days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage.

9.2.2 Cancellation or Expiration. If a stop work order issued under this clause is canceled or the period of the order or any extension expires, the Contractor shall resume work. The Procurement Officer shall make an equitable adjustment in the delivery schedule or Contract price, or both, and the Contract shall be amended in writing accordingly.

9.3 Non-exclusive Remedies. The rights and remedies of ADHS under this Contract are not exclusive, and ADHS is entitled to all rights and remedies available to it, including those under the Arizona Uniform Commercial Code and Arizona common law.

9.4 Right of Offset. The State shall be entitled to offset against any sums due the Contractor in any Contract with the State or damages assessed by the State because of the Contractor's non-conforming performance or failure to perform this Contract. The right to offset may include, but is not limited to, a deduction from an unpaid balance and a collection against the bid and/or performance bonds. Any offset taken for damages assessed by the State shall represent a fair and reasonable amount for the actual damages and shall not be a penalty for non-performance.

10 Contract Termination

10.1 Cancellation for Conflict of Interest. Pursuant to A.R.S. § 38-511, the State may cancel this Contract within three (3) years after Contract execution without penalty or further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on behalf of the State is, or becomes at any time while the Contract or an extension of the Contract is in effect, an employee of or a consultant to any other party to this Contract with respect to the subject matter of the Contract. The cancellation shall be effective when the Contractor receives written notice of the cancellation, unless the notice specifies a later time. If the Contractor is a political subdivision of the State, it may also cancel this Contract as provided in A.R.S. § 38-511.

10.2 Gratuities. The State may, by written notice, terminate this Contract, in whole or in part, if the State determines that employment or a Gratuity was offered or made by the Contractor or a representative of the Contractor to any officer or employee of the State for the purpose of influencing the outcome of the procurement, securing the Contract or an Amendment to the Contract, or receiving favorable treatment concerning the Contract, including the making of any determination or decision about Contract performance. The State, in addition to any other rights or remedies, shall be entitled to recover exemplary damages in the amount of three times the value of the Gratuity offered by the Contractor.

10.3 Suspension or Debarment. The State may, by written notice to the Contractor, immediately terminate this Contract if the State determines that the Contractor or its subcontractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.

10.4 Termination Without Cause.

10.4.1 Both the State and the Contractor may terminate this Contract at any time with thirty (30) days notice in writing specifying the termination date. Such notices shall be given by personal delivery or by certified mail, return receipt requested.

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10.4.2 If the Contractor terminates this Contract, any monies prepaid by the State, for which no service or benefit was received by the State, shall be refunded to the State within 5 days of the termination notice. In addition, if the Contractor terminates the Contract, the Contractor shall indemnify the State for any sanctions imposed by the funding source as a result of the Contractor's failure to complete the Contract.

10.4.3 If the State terminates this Contract pursuant to this Section, the State shall pay the Contractor the Contract price for all Services and Materials completed up to the date of termination. In a fixed price contract, the State shall pay the amount owed for the Services or Materials by multiplying the unit of service or item cost by the number of unpaid service units or items. In a cost reimbursement contract, the ADHS shall pay for any costs that the Contractor can document as having been paid by the Contractor and approved by ADHS. In addition, the Contractor will be paid its reasonable actual costs for work in progress as determined by GAAP up to the date of termination. Upon such termination, the Contractor shall deliver to the ADHS all deliverables completed. ADHS may require Contractor to negotiate the terms of any remaining deliverables still due.

10.5 Mutual Termination. This Contract may be terminated by mutual written agreement of the parties specifying the termination date and the terms for disposition of property and, as necessary, submission of required deliverables and payment therein.

10.6 Termination for Default. The State reserves the right to terminate the Contract in whole or in part due to the failure of the Contractor to comply with any material obligation, term or condition of the Contract, to acquire and maintain all required insurance policies, bonds, licenses and permits, or to make satisfactory progress in performing the Contract. In the event the ADHS terminates the Contract in whole or in part as provided in this paragraph, the ADHS may procure, upon such terms and in such manner as deemed appropriate, Services or Materials, similar to those terminated, and Contractor shall be liable to the ADHS for any excess costs incurred by the ADHS in obtaining such similar Services or Materials.

10.7 Continuation of Performance Through Termination. Upon receipt of the notice of termination and until the effective date of the notice of termination, the Contractor shall perform work consistent with the requirements of the Contract and, if applicable, in accordance with a written transition plan approved by the ADHS. If the Contract is terminated in part, the Contractor shall continue to perform the Contract to the extent not terminated. After receiving the notice of termination, the Contractor shall immediately notify all subcontractors, in writing, to stop work on the effective date of termination, and on the effective date of termination, the Contractor and subcontractors shall stop all work.

10.8 Disposition of Property. Upon termination of this Contract, all property of the State, as defined herein, shall be delivered to the ADHS upon demand.

11. **Arbitration** Pursuant to A.R.S. § 12-1518, disputes under this Contract shall be resolved through the use of arbitration when the case or lawsuit is subject to mandatory arbitration pursuant to rules adopted under A.R.S. § 12-133.

12. **Communication**

12.1 Program Report. When reports are required by the Contract, the Contractor shall provide them in the format approved by ADHS.

12.2 Information and Coordination. The State will provide information to the Contractor pertaining to activities that affect the Contractor's delivery of services, and the Contractor shall be responsible for coordinating their activities with the State's in such a manner as not to conflict or unnecessarily duplicate the State's activities. As the work of the Contractor progresses, advice and information on matters covered by the Contract shall be made available by the Contractor to the State throughout the effective period of the Contract.

13. **Client Grievances** If applicable, the Contractor and its subcontractors shall use a procedure through which

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clients may present grievances about the operation of the program that result in the denial, suspension or reduction of services provided pursuant to this Contract and which is acceptable to and approved by the State.

- 14 **Sovereign Immunity** Pursuant to A.R.S. § 41-621(O), the obtaining of insurance by the State shall not be a waiver of any sovereign immunity defense in the event of suit.

15 **Fingerprint and Certification Requirements/Juvenile Services.**

15.1 Paid and Unpaid Personnel The Contractor shall ensure that all paid and unpaid personnel who are required or are allowed to provide Services directly to juveniles have obtained fingerprint clearance cards in accordance with A.R.S. § 41-1758 et. seq.

15.2 Costs The Contractor shall assume the costs of fingerprint certifications and may charge these costs to its fingerprinted personnel.

- 16 **Administrative Changes** The Procurement Officer, or authorized designee, reserves the right to correct any obvious clerical, typographical or grammatical errors, as well as errors in party contact information (collectively, "Administrative Changes"), prior to or after the final execution of a Contract or Contract Amendment. Administrative Changes subject to permissible corrections include: misspellings, grammar errors, incorrect addresses, incorrect Contract Amendment numbers, pagination and citation errors, mistakes in the labeling of the rate as either extended or unit, and calendar date errors that are illogical due to typographical error. The Procurement Office shall subsequently send to the Contractor notice of corrections to administrative errors in a written confirmation letter with a copy of the corrected Administrative Change attached.

- 17 **Survival of Terms After Termination or Cancellation of Contract** All applicable Contract terms shall survive and apply after Contract termination or cancellation to the extent necessary for Contractor to complete and for the ADHS to receive and accept any final deliverables that are due after the date of the termination or cancellation.

18 **Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

The Contractor warrants that it is familiar with the requirements of HIPAA, as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH Act) of 2009, and accompanying regulations and will comply with all applicable HIPAA requirements in the course of this Contract. Contractor warrants that it will cooperate with the Arizona Department of Health Services (ADHS) in the course of performance of the Contract so that both ADHS and Contractor will be in compliance with HIPAA, including cooperation and coordination with the Government Information Technology Agency (GITA), Statewide Information Security and Privacy Office (SISPO) Chief Privacy Officer and HIPAA Coordinator and other compliance officials required by HIPAA and its regulations. Contractor will sign any documents that are reasonably necessary to keep ADHS and Contractor in compliance with HIPAA, including, but not limited to, business associate agreements.

If requested by the ADHS Procurement Office, Contractor agrees to sign a "Pledge To Protect Confidential Information" and to abide by the statements addressing the creation, use and disclosure of confidential information, including information designated as protected health information and all other confidential or sensitive information as defined in policy. In addition, if requested, Contractor agrees to attend or participate in HIPAA training offered by ADHS or to provide written verification that the Contractor has attended or participated in job related HIPAA training that is: (1) intended to make the Contractor proficient in HIPAA for purposes of performing the services required and (2) presented by a HIPAA Privacy Officer or other person or program knowledgeable and experienced in HIPAA and who has been approved by the GITA/SISPO Chief Privacy Officer and HIPAA Coordinator.

- 19 **Comments Welcome** The ADHS Procurement Office periodically reviews the Uniform Terms and Conditions and welcomes any comments you may have. Please submit your comments to: ADHS Procurement Administrator, Arizona Department of Health Services, 1740 West Adams, Suite 303, Phoenix, Arizona, 85007.

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ADHS12-007884	SCOPE OF WORK

A. Background

The Arizona Department of Health Services (ADHS) receives supplemental funding from the Centers for Disease Control and Prevention (CDC) to further develop and enhance the State of Arizona, Bureau of Public Health Emergency Preparedness (PHEP). These funds are used to support development and implementation of Tasks in this Scope of Work. The ADHS has determined that the most expeditious methodology to enhance these Tasks is to partner with the County Health Departments.

B. Objective

Develop plans along with the timetables and necessary activities to fully implement the Contractor's partnership role in response to the CDC capabilities and the programmatic methodology requirements of the Scope of Work.

C. Scope of Work

The Contractor shall:

1. The Scope of Work can be found in the following Tasks. In addition, the Annual Performance Requirements can be found in Attachment A hereto and incorporated herein. Attachment A will change each year, as will the estimated budget for the period of August 31st through August 30th. The Contractor shall submit a detailed Budget based upon their estimated cost associated with continuation of the programmatic Annual Performance Requirements through the Contract period, unless terminated, canceled or extended as otherwise provided herein. This Budget shall be submitted in the online Budget Tool format as provided by PHEP. The Contractor shall have the flexibility of making adjustments to the Budget categories within ten percent (10%) of the budgeted amount provided on the approved Budget. Any change exceeding ten percent (10%) shall be requested in writing on the Budget Tool and shall not be implemented until approved electronically by the ADHS. It is the responsibility of the Contractor to coordinate and manage funds under this Contract.

D. Tasks

The Contractor shall:

1. Maintain a Contractor's Public Health Emergency Preparedness Coordinator;
2. Maintain a detailed plan for 24/7 response to Public Health Emergencies along the guidelines and deliverables for the current year;
3. Maintain a timeline for the development of county-wide plans for Public Health Emergencies, preparedness for a bioterrorism event, infectious disease outbreak, or other public health emergency;
4. Maintain a timeline and a plan to identify personnel to be trained, to receive and distribute critical stockpile items and manage a mass distribution of vaccine and/or antibiotics on a twenty-four (24) hours a day, seven (7) days a week basis;
5. Maintain a plan to receive and evaluate urgent disease reports from all parts of the jurisdiction on a twenty-four (24) hours a day, seven (7) days a week basis. Maintenance of the plan shall include participation in state-wide electronic disease surveillance initiatives;
6. Maintain a plan to enhance risk communication and information dissemination to educate the public regarding exposure risks and effective public response; and
7. Submit an annual Budget based upon the cost reimbursement budgetary guidelines and the Budget Tool provided online at Health Services Portal. The Contractor shall submit the completed Budget on or before

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a date determined annually by the CDC and the State. The Contractor shall be advised by correspondence from the ADHS PHEP on the available funding amounts on or before August 31st. The funding shall be based on required critical and enhanced capacities for the Contractor's geographical area. Upon receipt of funding communication, the Contractor shall prepare and submit a detailed Budget for the period of August 31st through the following August 30th of each Budget year. The Contractor shall meet all reporting requirements for federal funding, including those years in which a match requirement is established.

E. Annual Performance Requirements

The Contractor shall perform the requirements in Attachment A.

F. Deliverables

The Contractor shall.

1. Maintain a person appointed as liaison and PHEP coordinator for this grant funding;
2. Provide an annual budget with all federal funding documentation required;
3. Provide Annual Performance Requirements as listed and distributed annually. See Attachment A; and
4. Be prepared to open their Emergency Operations Centers for all designated emergencies.

G. Notices, Correspondence and Reports

1. Notices, Correspondence and Reports from the Contractor to ADHS shall be sent to:

Arizona Department of Health Services
Public Health Emergency Preparedness
Bureau Chief
150 N. 18th Avenue, #150
Phoenix, AZ 85007

2. Notices, Correspondence and Payments from the ADHS to the Contractor shall be sent to:

Cochise County Health Department
1415 West Melody Lane, Building A
Bisbee, AZ 85603
Attn: Elizabeth Lueck
Phone: 520-432-9437
elueck@cochise.az.gov

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ADHS12-007884	PRICE SHEET

PRICE SHEET
Cochise County

Description – Cost Reimbursement Contract	Quantity	Unit Rate	Extended Price
CDC Deliverables for Public Health Emergency Preparedness (PHEP)	1	Year	\$201,596.61
Total			\$201,596.61

FY 11-12

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County and Tribal Public Health Emergency Preparedness Deliverables

BP11
Budget Year 2011-2012

Tier Definitions¹

Tier I:
Allocation of
\$300,000.00 and up

Tier II:
Allocation of
\$150,000.00 to \$299,999.99

Tier III:
Allocation of
\$50,000.00 to \$149,999.99

Tier IV:
Allocation of
\$0.01 to \$49,999.99

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1. **EVIDENCE BASED PERFORMANCE MEASURES AND BENCHMARKS**

Report on the following performance measures in the semi-annual and annual progress reports.

Note: the CDC performance measures below are the same for the State and local level

Emergency Notification System Maintenance

Tiers I, II & III shall:

- 1 1 Confirm the accuracy of the primary, secondary and tertiary contact information for all eight (8) Incident Command System functional roles at least once every six (6) months Submit ADHS provided template to the Health Services Portal (HSP).
- 1 2 Update the "County/Tribal Public Health Emergency Contact Information Sheet" and post to HSP every six (6) months and notify Preparedness Coordinator of location.

This sheet shall be updated to include contact information for the primary, secondary and tertiary individual for the following eight (8) Incident Command System roles: Incident Commander, Public Information Officer, Safety Officer, Liaison Officer, Operations Section Chief, Planning Section Chief, and Finance/Administration Section Chief. The contact information for each individual shall include: ICS title, individual's name, individual's non-emergency position title, office telephone number, mobile telephone number, home telephone number and email address

- 1.3 Test the notification system twice a year One (1) test shall be unannounced and occurring outside of regular business hours. This unannounced test shall occur within the first six (6) months of the grant cycle. This can be demonstrated as a response to a real incident, as a stand-alone drill or as part of a functional or full scale exercise.

The tests shall capture the following metrics:

PERCENT CONTACTED: The percentage of primary and secondary key response staff that the public health agency successfully contacts without using electric grid power and primary land-line telephone service.

The mean time for this to be completed is sixty (60) minutes.

The numerator to be captured is the number of partners who responded in each of the following categories:

- 1 0 00 to 15 00 minutes
- 2 15 00 to 30 00 minutes
- 3 30 00 to more minutes

The denominator to be captured is the number of response partners to whom the communication was sent.

NOTIFICATION TIME: The time to notify all primary and secondary staff, with public health agency Incident Command System functional responsibilities, that the public health agency Emergency Operations Center (EOC) is being activated

The mean time for this to be completed is sixty (60) minutes from the time the public health director or designated official begins notifying the pre-identified primary staff and secondary or tertiary staff, as necessary.

REPORT TIME. The amount of time for primary and secondary staff, with public health agency Incident Command System functional responsibilities, to report for duty at the public health agency EOC. The EOC utilized may be the public health agency's primary, secondary or virtual location. An example of a virtual EOC could be a secure telephone conference line

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The mean time for this to be completed is one hundred fifty (150) minutes from the time the public health director or designated official begins notifying the pre-identified primary staff and secondary or tertiary staff, as necessary, that the public health agency EOC shall be activated

2. EXERCISES AND IMPROVEMENTS

2.1 Tier I Partners

- 2.1.1 Participate in the 2011-2012 ADHS Training and Exercise Planning Workshop. Provide the agency specific HSEEP compliant Training and Exercise Plan (TEP) to ADHS no later than October 14, 2011;
- 2.1.2 Conduct or participate in at least two (2) public health emergency exercises developed in accordance with HSEEP standards. Submit the After Action Reports and Improvement Plans for each exercise to ADHS by August 9, 2012;
- 2.1.3 Conduct a minimum of three (3) different DSNS drills. One (1) shall occur by December 30, 2011 with the remaining two (2) to be completed by August 9, 2012. These shall be conducted in conjunction with required exercises or on their own. The associated templates shall be completed and provided to ADHS by January 13, 2012 and August 10, 2012 respectively.
 - 2.1.3.1 Dispensing through-put data collection
 - 2.1.3.2 Decision Making Assessment Tool
 - 2.1.3.3 Facility Set Up
 - 2.1.3.4 Pick List Generation
- 2.1.4 Participate in Hospital Preparedness Program (HPP) exercises with local hospitals and ADHS staff. Exercise support activities may include exercise simulation, participation in communication pathways, partial or full activation of emergency operation centers, and participation in exercise design and evaluation meetings
- 2.1.5 Regional Meeting Attendance: The public health emergency coordinator or designee shall attend each of the ADHS quarterly region meetings conducted within their region. These meetings shall provide an opportunity for collaboration with Tribal, County and Healthcare partners

2.2 Tier II Partners

- 2.2.1 Participate in the 2011-2012 ADHS Training and Exercise Planning Workshop.
- 2.2.2 Conduct at least one (1) DSNS drill by August 9, 2012. This drill may be conducted in conjunction with a larger exercise or on their own. The associated data tool shall be completed and provided to ADHS by August 9, 2012.
 - 2.2.2.1 Dispensing through-put data collection
 - 2.2.2.2 Decision Making Assessment Tool
 - 2.2.2.3 Facility Set Up
 - 2.2.2.4 Pick List Generation
- 2.2.3 Participate in Hospital Preparedness Program (HPP) exercises with local hospitals and ADHS staff. Exercise support activities may include exercise simulation, participation in communication pathways, partial or full activation of emergency operation centers, and participation in exercise design and evaluation meetings.
- 2.2.4 Regional Meeting Attendance: The public health emergency coordinator or designee shall attend each of the ADHS quarterly region meetings conducted within their region. These meetings shall provide an opportunity for collaboration with Tribal, County and Healthcare partners

Contract Number	INTERGOVERNMENTAL AGREEMENT
ADHS12-007884	Attachment A

2.3 Tier III Partners

- 2.3.1 Participate in the 2011-2012 ADHS Training and Exercise Planning Workshop.
- 2.3.2 If the Tier III partner plans to establish its own point(s) of dispensing in an emergency situation, then conduct at least one (1) DSNS drill by August 9, 2012. These drills shall be conducted in conjunction with a larger exercise or on their own. The associated data tool shall be completed and provided to ADHS by August 9, 2012.
 - 2.3.2.1 Dispensing through-put data collection
 - 2.3.2.2 Decision Making Assessment Tool
 - 2.3.2.3 Facility Set Up
 - 2.3.2.4 Pick List Generation
- 2.3.3 Participate in Hospital Preparedness Program (HPP) exercises with local hospitals and ADHS staff. Exercise support activities may include exercise simulation, participation in communication pathways, partial or full activation of emergency operation centers, and participation in exercise design and evaluation meetings.
- 2.3.4 Regional Meeting Attendance: The public health emergency coordinator or designee shall attend each of the ADHS quarterly region meetings conducted within their region. These meetings shall provide an opportunity for collaboration with Tribal, County and Healthcare partners.

2.4 Tier IV Partners

- 2.4.1 Response Plan: Submit an all hazards public health emergency response plan. This plan shall be submitted to the ADHS BPHEP Preparedness Coordinator via HSP.
- 2.4.2 Regional Meeting Attendance: The public health emergency coordinator or designee shall attend each of the ADHS quarterly region meetings conducted within their region. These meetings shall provide an opportunity for collaboration with Tribal, County and Healthcare partners.

3. ACTIVITIES

Report on the following activities in the semi-annual and annual progress reports.

3.1 Tiers I, II & III Partners

- 3.1.1 Domain Specific Reporting: During each quarter, sub-recipients shall be required to focus on the resource elements that are designated as "priority" items by the CDC. ADHS staff will produce a document before the start of each quarter that summarizes the priority resource elements for the quarter. Sub-recipients shall be required to review plans according to these priority resource elements or demonstrate that current plans are already sufficient. In many cases, local jurisdictions shall have already met the planning requirements. In some cases, additional plans or plan components shall be required.

Planning, training, and exercise activities for each quarter shall be limited to the specified domain and capabilities. It is understood that scheduling conflicts may require topics to be addressed outside of their assigned quarter, but sub-recipients shall make every effort to schedule activities according to the domain schedule where possible.

- 3.1.2 Pandemic Influenza Response Plans: Update and submit the pandemic influenza response plans, based on improvements identified in the 2009 H1N1 response by October 14, 2012.

Contract Number	INTERGOVERNMENTAL AGREEMENT
ADHS12-007884	Attachment A

Epidemiology

- 3.1.3 MEDSIS: County Partners shall designate and maintain a MEDSIS liaison, recruit and train additional external facilities on MEDSIS, and work with tribal health departments that are implementing MEDSIS. Tribal Partners shall work with ADHS to determine how or if they can utilize MEDSIS. The MEDSIS liaison is responsible for requesting/approving new users and informing ADHS when users should be removed. See Epidemiology Notes for details and reporting.

CIFOR EVALUATION: (County Only) County Partners shall have at least one (1) staff member participate in the CIFOR food borne disease toolkit evaluation.

- 3.1.4 SNS Program: Partners are required to attend a regional inventory system training delivered by ADHS before the midpoint of the grant cycle.

An annual site assessment of primary and secondary RSS Warehouse locations shall be conducted and documentation submitted to ADHS SNS Program Coordinator by August 9, 2012.

- 3.1.5 Corrective Actions: Ensure after action reports (AAR) and improvement plans (IP) are generated for any public health emergency exercise or real world event in which the public health entity participates and has a role. After action reports and improvement plans shall not need to be developed for the DSNS drills, if they are conducted as stand-alone drills.

Track and manage corrective actions identified in responses and exercises. Provide a description of the methodology used to track and manage the corrective actions.

3.2 Tiers I & II Partners

Epidemiology

- 3.2.1 On-Call Testing: (County Only) Participate in semi-annual State testing of the communicable disease on-call system using local and ADHS developed protocols, and provide a description of additional steps that would be taken by their department to investigate the disease.
- 3.2.2 Reporting: (County Only) Indicate the number of reports received, investigations conducted, specimens collected, and responses with epidemiologist involvement for: suspected outbreaks; suspect cases of select agents, measles, meningococcal disease or rubella; and non-communicable disease incidents.
- 3.2.3 Planning: Develop an operational plan for urgent, suspect infectious diseases for a) collection and submission of specimens to the state laboratory, and b) obtaining and administering prophylaxis for individual contacts in a non-mass prophylaxis setting.
- 3.2.4 County / Tribal Coordination: Meet with coordinating partners semi-annually and list dates and agencies involved for working with a) tribal entities or Indian Health Services, and b) other agencies or health department divisions, on communicable disease surveillance or investigations.

3.3 Tier II & III Partners

Epidemiology

- 3.3.1 Communicable Disease Reporting: (County Only) Validate communicable disease reporting for hospital inpatient and emergency department visits and for mortality surveillance, follow up with non-reporters identified, and develop education plan to address any potentially countywide reporting gaps identified.

Contract Number	INTERGOVERNMENTAL AGREEMENT
ADHS12-007884	Attachment A

- 3.3.2 Exercise/Real World Event: Conduct or participate in an exercise or real world event, involving an infectious disease scenario that utilizes the operational plans in for specimen collection and administering prophylaxis to individuals in a non-mass prophylaxis methodology.
- 3.3.3 Assessment: (County Only) Conduct an assessment of communicable disease communications to health care providers.

4. ASSURANCES

Report on the following items in the semi-annual and annual progress reports

4.1 Tiers I, II, III and IV Partners

- 4.1.1 Employee Certifications: PHEP Recipients are required to adhere to all applicable federal laws and regulations, including OMB Circular A-87 and semiannual certification of employees who work solely on a single federal award. Per OMB Circular A-87, compensation charges for employees who work solely on a single federal award shall be supported by periodic certifications that the employees worked solely on that program during the certification period.

These certification forms shall be prepared at least semiannually and signed by the employee or a supervisory official having firsthand knowledge of the work performed by the employee. Recipients shall be able to document that the scope of duties and activities of these employees are in alignment and congruent with the intent of the PHEP cooperative agreement to build public health response capacity and to rebuild public health infrastructure in local public health agencies. These certification forms shall be retained in accordance with 45 Code of Federal Regulation, Part 92.42.

- 4.1.2 Alignment of Activities and Purchases: Activities conducted under and purchases made with this award shall be kept specific to the deliverables outlined in this document. Other activities and purchases, in line with the CDC grant guidance for BP 1 or previous budget period deliverables shall be allowed if assurances are made that all assigned deliverables for BP1 will be completed. Approval for this shall be on a case by case basis and conducted by ADHS
- 4.1.3 Reporting: Progress on the deliverables and activities conducted with funds from this grant shall be reported in a timely manner with the submission of the Mid-Year and End-of-Year Reports. These documents shall be submitted to the ADHS BPHEP Preparedness Coordinator and posted to HSP. The location of this posted document shall also be provided to the ADHS BPHEP Preparedness Coordinator
- 4.1.4 Financial: Submit Match Documentation at the time the budget is submitted for approval. The budget shall not be considered without this documentation present.

All fiscal reporting shall be done in a timely manner, as outlined in the Contract.

- 4.1.5 Grant Activity Oversight: Maintain a full-time, part-time or appointed public health emergency preparedness coordinator to have responsibility for oversight of all grant related activities, budgets and reports.

Regular Board of Supervisors Meeting

Date: 09/27/2011

Contract Renewal - Countywide Printing Services

Submitted By: Dave Seward, Procurement

Department: Procurement

Presentation: No A/V Presentation

Recommendation: Approve

Document Signatures: BOS Signature Required

of ORIGINALS 2

Submitted for Signature:

NAME
of PRESENTER: N/A

TITLE
of PRESENTER: N/A

Mandated Function?: Federal or State Mandate

Source of Mandate
or Basis for Support?:

Docket Number (If applicable):

Agenda Item Text:

Approve the renewal of Contract No. 10-18-PUR-02 for Countywide Printing Services to West Press, who recently purchased Excel Print Communications, for the period of October 1, 2011 through September 30, 2012.

Background:

This is the second renewal of Contract No. 10-18-PUR-02 approved by the Board of Supervisors on November 17, 2009. The terms and conditions of the original solicitation allow for this contract to be renewed for a period of up to four (4) successive one-year periods. County departments are satisfied with the service and pricing provided by Excel Print Communications. West Press has agreed to the contract terms and conditions of the original contract with Excel, has agreed to hold their pricing firm for the one-year contract renewal period and have also retained the county representatives that were assigned to the contract with Excel. A contract amendment/assignment has been approved by the Procurement Director

Department's Next Steps (if approved):

Notify West Press of approval to renew the contract. Monitor contract performance.

Impact of NOT Approving/Alternatives:

County would likely pay more money for these services by not consolidating the volume of printing under one centralized contract.

To BOS Staff: Document Disposition/Follow-Up:

No action required.

Fiscal Impact

Fiscal Year:

One-time Fixed Costs? (\$\$\$):

Ongoing Costs? (\$\$\$):

County Match Required? (\$\$\$):

A-87 Overhead Amt? (Co. Cost Allocation \$\$\$):

Source of Funding?:**Fiscal Impact & Funding Sources (if known):**

County departments have spent approximately \$50,000 during the period of October 1, 2010 through September 16, 2011. County departments budget appropriately for these expenditures.

Regular Board of Supervisors Meeting

Date: 09/27/2011

Docket Z-08-11R (APS) - A Request to Revoke a Rezoning Action

Submitted By: Keith Dennis, Community
Development

Department: Community Development

Division: Planning

Presentation: PowerPoint

Recommendation: Approve

Document Signatures: BOS Signature Required

of ORIGINALS 1

Submitted for Signature:

**NAME
of PRESENTER:** Keith Dennis

**TITLE
of PRESENTER:** Senior
Planner

Mandated Function?: Federal or State Mandate

**Source of Mandate
or Basis for Support?:**

Docket Number (If applicable):

Agenda Item Text:

Adopt Zoning Ordinance 11-08, to approve Docket Z-08-11R (APS), rezoning Parcel 407-61-023L from Heavy Industrial (HI) back to RU-4, pursuant to the request by APS to revert the previously approved rezoning for this parcel.

Background:

MEMORANDUM

TO: Board of Supervisors

Through: Michael J. Ortega, County Administrator

FROM: Keith Dennis, Senior Planner

For: Michael Turisk, Interim Planning Director

SUBJECT: Request for Reversion of Zoning: Z-11-08R (APS)

DATE: September 14, 2011, for the September 27, 2011 Board of Supervisors Meeting

APPLICATION TO REVOKE A REZONING

The Applicant, Arizona Public Service Corporation (APS), requests that the Board of Supervisors change the Zoning District boundaries for a 10-acre parcel from HI (Heavy Industrial) to RU-4 (Rural).

The subject parcel (Parcel # 407-61-023L) is located along State Highway 80, near the intersection with Paul Spur Road, approximately halfway between Douglas and Bisbee, AZ.

I. BACKGROUND

In 2008, Arizona Public Service Corporation (APS) successfully rezoned a 10-acre parcel of land from RU-4 (Rural) to HI (Heavy Industrial). The purpose of the rezoning was to facilitate the development of a regional service center, which was to include a fleet and equipment storage yard and customer service office. On September 9, 2008, the Board of Supervisors granted conditional approval of the request. Condition #10 of that approval reads as follows:

10. The Applicant shall obtain a building permit within one year of Board of Supervisors approval of the

rezoning, otherwise the rezoning approval shall be deemed null and void, and the property shall revert to the RU-4 Zoning District.

Section 2207.05 of the Zoning Regulations makes provisions for revoking a previously approved rezoning action, particularly in the event that approval conditions have not been met. In this case, non-compliance with the Condition listed above provides the mechanism for revocation.

The remaining conditions attached to the approval are listed in the attached "As you are aware letter" dated September 16, 2008.

In December of 2009, the Planning Director granted an extension to the time limit defined by the above Condition, extending the permit deadline through September of this year. Rather than asking for an additional extension, the Applicant decided to ask the Board to revoke the rezoning.

APS cites the economic downturn as the overarching reason for the reversion request. In conversation with staff, the APS representative stated that plans to develop the property are on hold indefinitely. As such, it was determined that the best course of action for APS would be to ask the Board to rescind the rezoning approval. Should APS revive their plans to develop the property, they may either submit a new rezoning application, or pursue the project as a Special Use request.

II. RECOMMENDATION

Staff recommends that the Board of Supervisors grant the Applicant's request, and revert the rezoning back to RU-4.

Should the Board grant the request, the Chairman of the Board would sign the Zoning Ordinance accompanying this Docket, which would revert the property to its former RU-4 zoning, per the property owner's request.

Sample Motion: Adopt Ordinance No. 11-___, approving Docket Z-08-11R, and reverting the zoning of Parcel # 407-61-023L to RU-4 (Rural) from the current HI (Heavy Industrial) zoning.

III. ATTACHMENTS

- A. Applicant's Reversion Request
- B. Location Map
- C. "As you are aware letter" dated September 16, 2008
- D. Zoning Ordinance #11-___

Department's Next Steps (if approved):

If the Board adopts the Zoning Ordinance, the next step would be for the Chairman of the Board to sign it.

Impact of NOT Approving/Alternatives:

If the Board does not adopt the Zoning Ordinance, the property will retain the current HI zoning designation, per the previous rezoning action by the Board in September of 2008.

To BOS Staff: Document Disposition/Follow-Up:

If the Chairman signs the Zoning Ordinance, the next step would be to return a signed, recorded copy of the Ordinance to the Planning Department for our files.

Attachments

Z-08-11R Staff Memo

Z-08-11R Attachments

BOS Legal Notice

Docket Z-08-11 PPT



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: Board of Supervisors
Through: Michael J. Ortega, County Administrator

FROM: Keith Dennis, Senior Planner
For: Michael Turisk, Interim Planning Director

SUBJECT: Request for Reversion of Zoning: Z-11-08R (APS)

DATE: September 14, 2011, for the September 27, 2011 Board of Supervisors Meeting

APPLICATION TO REVOKE A REZONING

The Applicant, Arizona Public Service Corporation (APS), requests that the Board of Supervisors change the Zoning District boundaries for a 10-acre parcel from HI (Heavy Industrial) to RU-4 (Rural).

The subject parcel (Parcel # 407-61-023L) is located along State Highway 80, near the intersection with Paul Spur Road, approximately halfway between Douglas and Bisbee, AZ.

I. BACKGROUND

In 2008, Arizona Public Service Corporation (APS) successfully rezoned a 10-acre parcel of land from RU-4 (Rural) to HI (Heavy Industrial). The purpose of the rezoning was to facilitate the development of a regional service center, which was to include a fleet and equipment storage yard and customer service office. On September 9, 2008, the Board of Supervisors granted conditional approval of the request. Condition #10 of that approval reads as follows:

10. The Applicant shall obtain a building permit within one year of Board of Supervisors approval of the rezoning, otherwise the rezoning approval shall be deemed null and void, and the property shall revert to the RU-4 Zoning District.

Section 2207.05 of the Zoning Regulations makes provisions for revoking a previously approved rezoning action, particularly in the event that approval conditions have not been met. In this case, non-compliance with the Condition listed above provides the mechanism for revocation.

The remaining conditions attached to the approval are listed in the attached "As you are aware letter" dated September 16, 2008.

In December of 2009, the Planning Director granted an extension to the time limit defined by the above Condition, extending the permit deadline through September of this year. Rather than asking for an additional extension, the Applicant decided to ask the Board to revoke the rezoning.

APS cites the economic downturn as the overarching reason for the reversion request. In conversation with staff, the APS representative stated that plans to develop the property are on hold indefinitely. As such, it was determined that the best course of action for APS would be to ask the Board to rescind the rezoning approval. Should APS revive their plans to develop the property, they may either submit a new rezoning application, or pursue the project as a Special Use request.

II. RECOMMENDATION

Staff recommends that the Board of Supervisors grant the Applicant's request, and revert the rezoning back to RU-4.

Should the Board grant the request, the Chairman of the Board would sign the Zoning Ordinance accompanying this Docket, which would revert the property to its former RU-4 zoning, per the property owner's request.

Sample Motion: *Adopt Ordinance No. 11-__, approving Docket Z-08-11R, and reverting the zoning of Parcel # 407-61-023L to RU-4 (Rural) from the current HI (Heavy Industrial) zoning.*

III. ATTACHMENTS

- A. Applicant's Reversion Request
- B. Location Map
- C. "As you are aware letter" dated September 16, 2008
- D. Zoning Ordinance #11-__

Dennis, Keith

From: Jay.Buffkin@aps.com
Sent: Friday, August 19, 2011 3:44 PM
To: Turisk, Mike
Cc: Dennis, Keith; Nancy.Lutey@aps.com; Arthur.Greeley@aps.com; Michael.Saccomando@aps.com; Lawrence.Miller@aps.com
Subject: FW: APS Cochise District Service Center_Michael Turisk.doc

Michael,

Docket number Z-08-11 (APS) Black Bear, Parcel No. 407-61-023L

Regarding the Extension for the bldg permit filing deadline for APS Paul Spur rd. property. We are willing to allow the Heavy Industrial zoning to revert to the rural Zoning RU-4 at this time.

If you have any questions Please call me

Thank You

Jay Buffkin FMP, LEED GA
APS Real Estate & Facilities Management
602-250-4039 office
602-809-2930 cell
Jay.Buffkin@aps.com

--- NOTICE ---

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9/15/2011

Location Map





COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Susan Buchan, Director

September 16, 2008

Mr. Brian McClure
FM Solutions
4001 North 3rd Street
Suite 250
Phoenix, AZ 85012

SUBJECT: Docket Number Z-08-11 (APS), Parcel No. 407-61-023L

Dear Mr. McClure,

As you are aware, at their regular meeting on September 9, 2008, the Board of Supervisors voted (2 – 1) to conditionally approve your request to rezone Parcel 407-61-023L, from RU-4 (Rural) to HI (Heavy Industrial). The approval is conditioned as follows:

1. The Applicant shall provide the County a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the subject property within thirty (30) days of Board of Supervisors approval of the rezoning.
2. Prior to the issuance of a building permit, the Applicant shall submit a revised concept plan for the property, which conforms to the requirements of Section 2208.03.B.1 of the Zoning Regulations.
3. Prior to the issuance of a building permit, the Applicant shall demonstrate that the development will comply with one or more of the water conservation policies as set forth in Section 102.E of the Comprehensive Plan.
4. The uses permitted by this rezoning to a Heavy Industrial District are limited to contract construction services, professional services, outdoor storage and other accessory uses as identified in the concept plan. Any modification from this array of uses, or any land use not deemed by the Planning Director to be in substantial conformance with the concept plan shall require a modification of this condition through a public rezoning process.
5. The Applicant shall provide a striped, asphalt surface on Paul Spur Road, from the point at which the proposed driveway accesses the road, and North to the State Highway 80 Right-of-Way, prior to the issuance of a certificate of occupancy.

6. Prior to permit issuance, the Applicant shall enter into a delay agreement with the County, for future improvements at the intersection of Paul Spur Road and State Route 80, as recommended by ADOT.
7. The Applicant shall construct a merging lane along the Northeast corner of the future driveway access to Paul Spur Road, to serve Northbound traffic exiting the site, prior to the issuance of a certificate of occupancy.
8. The Applicant shall demonstrate permanent, legal access to the site from Paul Spur Road, and obtain a Right-of-Way permit for access to Paul Spur Road, prior to the issuance of a building permit.
9. The Applicant shall perfect the 80' Right-of-Way between the Southernmost portion of the railroad Right-of-Way and the Southernmost portion of the proposed Paul Spur Road access driveway, prior to the issuance of a certificate of occupancy.
10. The Applicant shall obtain a building permit within one year of Board of Supervisors approval of the rezoning, otherwise the rezoning approval shall be deemed null and void, and the property shall revert to the RU-4 Zoning District.

As you are also aware, the Board's action on this matter is deemed final unless appealed to Superior Court within 30 calendar days of the date on which it was taken.

After the appeal period, the County may *issue* building permits. However, you may *file* for building permits at any time, including a time within the appeal period. Please feel free to contact me if you have any questions at (520) 432-9244 or by email at kdennis@cochise.az.gov.

Sincerely,



Keith Dennis, Planner

C: Susan Buchan, Planning Director
Rick Corley, Zoning Administrator
Susana Montana, Planning Manager
Dora Flores, Permit Coordinator
Maria Dayton, Commercial Permit Coordinator
Z-08-11 Docket, Black Bear, Parcel 407-61-023L

LEGAL NOTICE NOTICE OF PUBLIC HEARING

The Board of Supervisors hereby gives notice a Public Hearing will be held at or after 10:00 AM on Tuesday, September 27, 2011 at 1415 Melody Lane, Building G, Bisbee, Arizona to consider the following:

Docket Z-08-11R (APS): The Applicant is requesting a Reversion of Zoning action on a 10-acre parcel located West of Douglas, AZ. On September 9, 2008, the Board of Supervisors approved a rezoning request (Docket Z-08-11) to rezone a 10-acre parcel from RU-4 (Rural – 1 dwelling per four acres) to HI – Heavy Industrial. The Applicant, Arizona Public Service Corporation, now requests that the property be returned to the RU-4 District.

The subject parcel (Parcel # 407-61-023L) is located South of State Highway 80, near the intersection with Paul Spur Road, approximately halfway between Douglas and Bisbee, AZ. It is further described as being situated in Section 9 of Township 24, Range 26 East of the G&SRB&M, in Cochise County, Arizona.

Applicant: Arizona Public Service Corporation (APS)

Details of the above docket are on file in the Cochise County Community Development Department and may be examined during office hours. Inquiries may be directed to Senior Planner Keith Dennis, by calling 520-432-9240, or by email to kdennis@cochise.az.gov. All persons interested in said matter may appear at the public hearing and show cause why the request should or should not be granted.

Dated September 1, 2011

Patrick Call, Chairman, Cochise County Board of Supervisors

Publish: *Bisbee Observer*

No later than September 8, 2011

Docket Z-08-11R (APS)

A Request to Revoke a Rezoning
from RU-4 (Rural) to Heavy
Industry

Cochise County Board of Supervisors
September 27, 2011

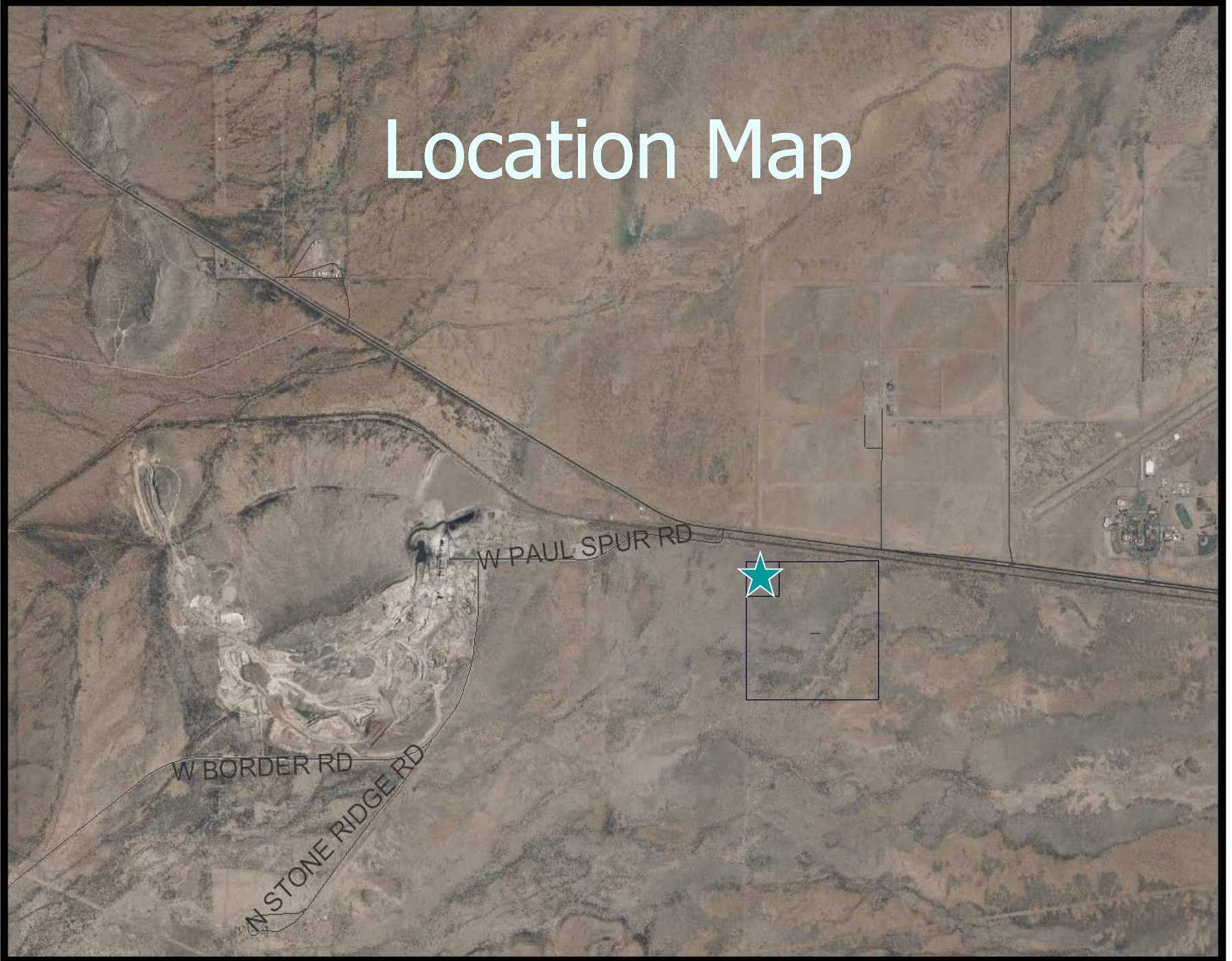
Docket Z-08-11 (APS)

- In On September 9, 2008, The Board rezoned a 10-acre parcel from RU-4 (Rural – 1 dwelling per four acres) to HI – Heavy Industrial;
- The Rezoning was to facilitate the development of a contract construction facility and office space (called a 'regional service center') for APS. The proposed facility was intended to provide indoor and outdoor storage of utility equipment, vehicles and fuel storage, as well as office space;

Docket Z-08-11R (APS)

- The deadline for obtaining a permit was later extended to September of 2011;
- Rather than extend, the Applicant now seeks to nullify the rezoning approval, reverting the zoning on the parcel to RU-4;
- The subject parcel (Parcel #407-61-023L) is located South of S.R. 80, near the intersection with Paul Spur Road, halfway between Douglas and Bisbee, AZ. The Applicant is Arizona Public Service Corporation (APS).

Location Map



Recommendation

- Staff recommends the Board grant the request, and revert the HI zoning to the previous RU-4 designation.

Regular Board of Supervisors Meeting

Date: 09/27/2011

Dockets Z-11-03 and MDP 11-01, a Request to Rezone to

Submitted By: Keith Dennis, Community
Development

Department: Community Development

Division: Planning

Presentation: PowerPoint

Recommendation: Approve

Document Signatures: BOS Signature Required

of ORIGINALS 2

Submitted for Signature:

NAME
of PRESENTER: Keith Dennis

TITLE
of PRESENTER: Senior
Planner

Mandated Function?: Federal or State Mandate

Source of Mandate
or Basis for Support?:

Docket Number (If applicable):

Agenda Item Text:

Adopt Zoning Ordinance 11-09 to (1) amend certain Cochise County zoning districts boundaries from, RU-4 (Rural, one dwelling per 4 acres), to PD (Planned Development District), (2) amend the Cochise County Comprehensive Plan, and (3) approve a master development plan, pursuant to the application of James Lee of Madison Diversified.

Background:

MEMORANDUM

TO: Cochise County Board of Supervisors

FROM: Keith Dennis, Senior Planner

For: Michael Turisk, Interim Planning Director

SUBJECT: Dockets MDP-11-01 and Z-11-03 (Madison 1240)

DATE: September 14, 2011, for the September 27, 2011 Meeting

MASTER DEVELOPMENT PLAN AND REZONING REQUEST

The item consists of two Dockets, MDP-11-01 and Z-11-03, and is a proposal for a 1,240-acre Master Development Plan (MDP) West of Willcox, Arizona. The nature of the proposed development, which would take place in several phases, would include a rezoning of the entire tract to Planned Development District (PDD) in order to facilitate the MDP.

The MDP is proposed as a four-phase development plan. At full build-out, the MDP would include densities ranging from 12 dwellings per acre to one dwelling per four acres, and would include a commercial mixed use area. A maximum density of 1,200 residential units or an equivalent of commercial and residential units has been determined by the Analysis of Adequate Water Supply, dated April 19, 2005.

The subject property is located west of incorporated Willcox, Arizona, along the north side of Airport Road (between Mileposts 10 and 11). The Parcels subject to the Application are: 202-35-002A, 002B, 005, 202-01-009C, 009D, 009E, 202-23-004. The Applicant, James Lee, is represented by David Bohn of Kinetix Engineering.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Size: 1,240 Acres

Zoning: RU-4 (Rural, 1 dwelling per 4 acres)

Growth Area: D (Rural Growth Area)

Plan Designation: Rural

Area Plan: None Applicable

Existing Use: Grazing Land, Undeveloped

Proposed Use: Rezone to Planned Development District to allow development of a 1,240-acre Master Development Plan

Surrounding Zoning and Land Use

Direction Zoning Use(s)

North RU-4 Marguerite Road, Rural Residential and Undeveloped Land

South RU-4 Airport Road, Rural Residential and Undeveloped Land

East RU-4 Judd Drive, Rural Residential and Undeveloped Land

West RU-4 Rural Residential and Undeveloped Land

II. BACKGROUND

On July 13, 2011, the Planning and Zoning Commission voted unanimously (5 – 0) to forward these Dockets with a recommendation of conditional approval to the Board of Supervisors in two separate motions: the first for Docket Z-11-03, and the second for MDP 11-01. The Commission's motions included staff recommendations regarding suggested approval conditions.

On August 23, 2011, the Board of Supervisors held a public hearing on the Docket. The Board tabled the item to a time certain, in order to hold a work session on the proposal.

On September 13, 2011, the Board held a work session to discuss issues surrounding the Madison MDP. The discussion largely concerned the need for cost-sharing on improvements to Airport Road. The Madison traffic study recommended that the Applicant be required to pave the road from the westernmost frontage of the property, east to Hamilton Road as part of Phase 1 traffic impact mitigation. However, as Airport Road has since been scheduled to be paved along this section in the near future, it was determined that the Developer should instead contribute a portion of the costs of these road improvements.

II. PARCEL HISTORY

There are no records of any permits or violations associated with the subject parcels.

In 2005, a previous owner submitted a proposal for an MDP for the same property (called Winchester, Docket MDP 05-01). The report and some of the accompanying materials constitute what might be called the "parent document," of which the current proposal is a more mature derivation. The project was abandoned in 2006, before being presented to the Commission or Board. The current owner and developer, James Lee of Madison Diversified, then took ownership of the project, to include the tract itself as well as the MDP groundwork, such as the MDP Report, hydrology report, and soils report that had been completed for the Winchester MDP concept at that time.

In 2010, the developer submitted a proposal for a subdivision called "Madison 40" (S-10-01). This was intended to be the first phase of the larger Madison project, a 9-lot subdivision on 40 acres adjacent to Airport Road. The project was subsequently withdrawn, as the developer changed course and decided to revive and pursue efforts towards an MDP that would facilitate and govern the development of the entire 1,240 acre tract.

III. PROJECT DESCRIPTION

Master Planned Communities Defined

A Master Development Plan is defined in Article 4 of the Zoning Regulations as follows:

A master development plan is a duly adopted component of the Cochise County Comprehensive Plan

that provides a detailed plan for the coordinated development of a specific area. A master development plan will address, at a minimum: basic densities; specific future land uses and boundaries thereof; the general character, extent, and location of major thoroughfares, collector streets, major drainageways, structures, open space, schools, parks, and community facilities, as applicable, for a designated area of Cochise County (406.01).

MDPs, when enacted by the Board of Supervisors, become the guiding policy vehicle for future land use, infrastructure improvement, subdivision development, architectural guidelines, and community facilities within the boundaries of the plan area. Future development within the area must abide by the policies and guidelines proffered in the MDP report; any rezoning that occurs within the MDP boundaries must also be in substantial conformance with the MDP policies. Thus, over the span of the MDP build-out, development in the area will be guided and informed by site specific data as provided in such documents as the MDP policy document proper, as well as soils and hydrology reports, water quality and adequacy analyses, and traffic impact studies. Policies specific to the MDP area are informed by these studies, with a whole, working, planned community being the intended result.

Planned Development District (PDD) Rezoning

As established in Article 15 of the Zoning Regulations, the PDD is an option for developers pursuing an MDP. PD Districts may, in fact, only be established within an approved Master Development Plan area, and development within such Districts must be in substantial conformance with the governing MDP. Master Development Plans need not be followed by a rezoning to a PD District, in other words, but rezonings to PD cannot take place outside the framework of an approved MDP.

As stated above, the goal of an MDP is to define a set of policies and development standards for the plan area, so as to facilitate the development of a planned community, with its own distinct identity and character. The PDD is a powerful tool that developers can utilize to achieve this end. Within the context of an approved MDP, a developer may essentially establish their own Zoning Districts within the plan area, with unique development standards, permitted, accessory and Special Uses, all of which serve, over time, to guide development towards the intended goal. In drafting the MDP report under current consideration, the developer has used the Cochise County Zoning Regulations as a starting point from which to craft these proposed Districts within the MDP area. The Districts proposed within the MDP Report would, upon Board approval, be established as the available zones for future development within the MDP area. These are described in detail in Section IV of the MDP Report, and are briefly described below:

Low-Density Residential (LDR), with 593 acres and lot sizes ranging from 1 acre to 4 acre subdivision plats;

High Density Residential (HDR), 28 acres which could include apartment dwellings, townhomes, zero lot line homes and similar products, with densities averaging one dwelling per 2,500 square feet;

Mobile Home Park (MHP), 32 acres, which would be subject to the development standards for Manufactured Home Parks (Section 1812); and

Mixed-Use District (MUD), 80 acres, which would allow a mixture of high-density housing, commercial and some light industrial uses.

The Madison project will have a capacity of 1,200 residential units, or an equivalent combination of residential and non-residential units.

Comprehensive Plan Amendment

Master Development Plans, when approved by the Board of Supervisors, serve as an amendment to the Comprehensive Plan and will replace the existing, underlying growth category and plan designations for

the property or properties that it addresses (406.02).

Currently the project area carries a "Rural" Comprehensive Plan designation, within a Category D (Rural) Growth Area. The eastern boundary of the plan area borders the Willcox Category B Growth area, which is also the boundary of the Willcox Strategic Plan area. Staff's position is that, should the MDP be approved, it would be appropriate to re-designate the plan area as a Category B (Community) Growth Area with a "Developing" Plan designation. If approved by the Board of Supervisors as recommended, Condition #2 would make this Comprehensive Plan amendment explicit.

Although the proposal is an amendment to the Comprehensive Plan, and although the PD District allows the developer considerable flexibility with regard to development and use standards, the MDP policies as offered in the Report demonstrate a strong foundation in the policies of the Cochise County Comprehensive Plan, the Zoning Regulations, and the design standards of Cochise County regarding public improvements. For the benefit of decision makers and stakeholders, staff has separately attached Section IV.E.3 of the MDP Report ("General Administration"). Upon Board approval, these policies will serve as the policy mechanism governing all development in the MDP area, and will effectively establish the MDP area plan policies as an outgrowth of the broader set of policies and regulations of Cochise County. These are attached as Attachment C, and much of the analysis on the following pages will reference these important policy statements.

IV. MDP ANALYSIS

Below is the Planning Department's analysis of the MDP proposal. The project is analyzed according to three sets of criteria:

- ? The MDP requirements as set forth in Article 4 of the Zoning Regulations (Section 406);
- ? The Planned Development District requirements per Article 15; and
- ? The Rezoning Factors as provided in Section 2208.03.

For ease of reference, we have, where possible, quoted the applicable sections from the Regulations.

IV – 1. Compliance with Submittal Requirements for Master Development Plans (Section 406.06)

A. The applicant shall submit a master development plan map, drawn at a scale of either 50, 100, or 200 feet to one inch, or at a scale approved by the Zoning Inspector, and including the following information: (Complies)

1. Title of the development, a legal description of the property, parcel number(s), name of the developer and registered land surveyor or engineer, date of the plan, a north arrow and scale. (Complies)
2. A vicinity map showing the general location of the property, development and any incorporated city boundaries within three miles of the development. (Complies)
3. Boundary lines and ties to at least two section corners or quarter corners and dimensions of plan area boundaries. Section lines and mid-section lines shall be clearly designated. (Complies)
4. Existing land uses, existing zoning status, roads and wash corridors within the designated area and within ¼ mile of the proposed plan area. (Complies)
5. Proposed sizes of the various types of lots or parcels to be developed (acreage or square footage). (Complies)
6. General topography, at 10-foot contour intervals, all drainageways having a contributing drainage area of 150 acres or more, and all flood hazard zones. (Complies, with MDP report exhibits)

7. Major street layout, including: existing major thoroughfares serving, traversing, abutting, or otherwise affecting or affected by the proposed plan area; proposed collector and arterial streets; existing easements and rights-of-way within the plan area. (Complies)

8. If more than one zoning district is proposed, boundaries of the different zoning districts. (Complies)

9. Locations of proposed and existing structures, land use locations, major off-street parking and loading areas, open space, pedestrian circulation systems, bike and/or equestrian trails, public facilities such as schools, and approximate densities. (Complies)

10. General location of utilities, easements and other service facilities (Complies)

11. Intended phasing of the development, if applicable (Complies)

The maps and exhibits described above are included as Attachment B to this Memo.

The Applicant has submitted a Phasing Plan as part of the MDP report. Phase 1 is slated for construction as a Mobile Home Park. Phase 2 is proposed as "Low Density Residential" with an average lot size of two acres. Phase 3 is similarly characterized, with average lot sizes of four acres. Finally, Phase 4 would see the development of the High Density Residential and Mixed Use Commercial areas designated along Airport Road.

B. The Master Development Plan map shall be accompanied by a written report, to be adopted as a part of the Master Development Plan, that includes the following information:

1. Methods of screening and buffering, where incompatible land use configurations necessitate protection for the proposed development or surrounding development (Complies)

The Plan document provides for screening and buffering on Page 32 of the Report, in Section IV.B.6: "At the time of site plan review, all commercial developments shall submit a plan detailing fencing, walls, landscaping, building placement, and other details, which must be in conformance with the PD design guidelines for commercial structures."

2. Provisions for creation, use and maintenance of open space, recreation areas and preservation of scenic features of the land (Complies)

The developer has included provisions in Section IV of the MDP report (Attachment C) which address the requirements of 406.06.B.2, above:

- "Prior to tentative plat approval for any phase of development, the Applicant shall provide a draft charter for a property maintenance district which will be responsible for HOAs within the Plan area. The draft CC&Rs shall include provisions which obligate the association to maintain all open space, trail system, common areas parks, landscaping in common areas and medians, entry features, and etc within the development. The CC&Rs shall also include deed restrictions enforcing the site development standards proposed within the MDP Area."

3. General provisions for pedestrian, bicycle and equestrian circulation throughout the development (Complies)

The property maintenance district discussed above would ultimately be responsible for the upkeep of amenities such as described here. The design and construction of these are provided for through the following provision in Section IV of the MDP report:

- "A detailed pedestrian and equestrian circulation plan shall accompany any tentative plat submittal within the Plan area, which generally conforms to the "Pedestrian Circulation Exhibit" accompanying the

MDP proposal. The pedestrian circulation system will comply with the standards for Planned Development District Pedestrian Circulation Systems as provided in Section 1503.08.D of the Zoning Regulations.”

4. Statement specifying how roads, State-approved waste disposal, water supply, fire protection, and utilities will be provided, with approximate timing and location, including closest sewer and community waterlines and capacity to serve this development (Complies)

As demonstrated in Attachment C, policy provisions have been made that will address all of these requirements prior to the undertaking of any development in the plan area. These include the submittal of subdivision plats and commercial permitting which will require all public improvements to be constructed to Cochise County standards, and service commitments from fire and utility service providers.

5. Statement specifying how amenities are to be provided (sidewalks, open space, parks, recreational facilities, streetlights, curb and gutter, landscaping) including approximate timing and location (Complies)

As discussed above, subdivision plats and commercial permits will be submitted for these amenities and infrastructure improvements. The design and construction of these will, according to the MDP policies, meet with County standards for such improvements.

6. Statement of general kinds of development standards intended to be controlled through deed restrictions (i.e., architectural design, building height, construction materials, common area development and maintenance, landscaping, screening and buffering of individual sites (Complies)

As discussed, CC&Rs will be recorded and enforced by the property owners’ association through deed restrictions. In addition to deed restrictions, the Madison MDP policies will themselves govern future subdivision development.

7. Statement of the projected population and anticipated impact of the development upon existing regional utilities and community facilities and services including, but not limited to water, electricity, sewer and solid waste disposal, schools and parks, police and fire protection: (Complies)

The MDP policies stipulate that water, wastewater and property maintenance districts or other equivalent bodies shall be formed to ensure adequacy for these resources.

With regard to law enforcement, fire and school district impacts, these impacts are not adequately addressed in the MDP report. However, the requirement for service commitments from such organizations would be incorporated as governing policies of the MDP should it be approved as recommended.

8. Report or narrative assessing adequacy of water supply to serve the proposed development (Complies)

The report contains an Analysis of Adequate Water Supply issued by the Department of Water Resources on April 19, 2005 (See Attachment D). This determination is a vital first step in obtaining a full determination of water adequacy from ADWR. The analysis allows for a capacity of up to 1200 dwelling units, or an equivalent combination of residential and non-residential units.

9. Projected trip generation for the entire project at completion. If projected trip generation is of sufficient magnitude to significantly increase traffic, thereby reducing the level of service on one or more abutting or surrounding streets, or 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, at, or over capacity, a traffic impact study including the following additional information is necessary (Complies, subject to Condition #1):

- a. Survey of thoroughfares, existing and planned, within at least ½ mile of the proposed plan area and may extend to collector and arterial streets serving the site.
- b. Consolidation of existing traffic data; estimates of future traffic.
- c. Trip assignments and their effect on traffic flow along streets serving the site, proposed thoroughfare alignments, capacities, signalization requirements, lanes, intersection configurations, etc.
- d. Timing and methods of right-of-way improvements as necessary to serve projected traffic loads.
- e. Current level of improvement of major routes serving the site (i.e. built to County standards)
- f. An inventory and analysis of off-site improvements to be made, with approximate timing for each phasing.
- g. Provisions for controlling access to major streets.

The Applicant has provided a robust initial traffic study that has been revised per the County Transportation Planner comments. The policy provisions in Section IV.E of the MDP report stipulate that traffic-related mitigation recommendations and methods in the TIA will be adhered to as the area develops.

The August 23, 2011 traffic study, prepared by Task Engineering, recommends that the section of Airport Road from the Westernmost frontage of the project area, East to Hamilton Road be improved with a paved surface. The County will instead require an exaction from the developer for on-going improvements to Airport Road, in the amount of \$109,016.00 (See Condition #1). The other recommendations of the August 23rd, 2011 traffic study will still be binding on the project.

10. Provisions for water conservation measures such as effluent re-use, recharge facilities, low-flow appliances, deed restrictions governing water use, drought-tolerant landscaping, limitations on irrigation, or others (Complies)

As with other requirements, the policy provisions in Section IV.E of the MDP report will ensure that County-approved water conservation methods will be employed:

- Except as explicitly modified herein, the MDP area shall be subject to the applicable policies of the Comprehensive Plan, related to Master Development Plans, Water Conservation and Transportation. The Water Conservation standards in Section 1820 of the Zoning Regulations shall also apply to all new construction.

11. Soils analyses for any proposed plan area shown on the most recent soil survey (USDA, Natural Resources Conservation Service) as containing soils having moderate to severe erosion hazard or corrosivity (Complies)

The Applicant has provided a Soils Evaluation Report as part of the on-site application package. However, more site specific soils analysis will be required as part of the subdivision and permitting processes for future development phases.

12. 3-Dimensional renderings of the development proposal overlaid onto aerials or maps showing the visual context of the proposed development in relation to existing development or staking when appropriate to evaluate impact on views (Waived – Not Applicable)

Section 406.06.C allows the Zoning Inspector to waive requirements of Sections 406.06.A or B where deemed appropriate. The Developer was relieved of this requirement during the application process.

13. Statement of development not to exceed 5 years from approval unless otherwise approved by the Board of Supervisors (Does not Comply – See Condition #10 and Attachment E)

The Applicant has asked for a Waiver to this requirement, citing uncertain market conditions, and the size and scope of the project as requiring a longer period until full build out is reached. The MDP Report projects a 15-year time frame for full development. Attachment E is the Engineer's request for Waiver from this requirement, and includes the Developer's rationale for the request. Staff can support the request given the scale and scope of the project. Staff offers the Planning Department recommendation on this matter as Condition #10, which provides a period of just over eight years for development (January 1, 2020), unless otherwise authorized by the Board of Supervisors.

IV – 2. Compliance with Applicable Site Development Standards for Planned Development Districts (Section 1503)

MDPs should be designed with the intent to minimize negative impacts to properties adjacent to the development, minimize impacts upon community facilities and services, prevent undue hazards to people or property on or off site from traffic, flooding, erosion, subsidence, soil slipping or other dangers, annoyances or inconveniences and protect the visual and physical character of the site.

1503.01 Minimum Development Area (Complies)

The minimum site area allowed for MDPs is 10 acres; at 1,240 acres, Madison meets this standard.

1503.02 Density (Complies)

Density within a PDD is limited only to what the developer can provide in terms of adequate water, sewer, utility and road infrastructure and improvements. Due to water availability, the proposed development will be limited to 1,200 residential dwellings or an equivalent combination of residential and commercial. Upon approval by the Board of Supervisors, the MDP report policies and regulations would become the governing policy document for the MDP area, thereby codifying the provision of such infrastructure and improvements.

1503.03 Site Coverage and Design (Complies)

The developer has the option of creating site coverage and design standards. Section 1503.03 recommends using development standards from similar Districts for site coverage standards, and the Developer has done so. The proposed PD development standards include provisions for permitted and special uses, accessory uses, setbacks and distances between structures, as well as site coverage standards. More detail-specific design evaluation will occur at the subdivision plat or commercial permit review stage.

1503.04 Setbacks (Complies)

Setbacks for all uses, including site design, building design, screening, landscaping, and open space, are provided to alleviate potential land use conflicts. Again, more detail-specific design evaluation will occur at the subdivision review or permitting stage.

1503.05 Open Space (Does Not Comply - See Condition #8)

Open space is that area of land not occupied by buildings, towers, walls, billboards, or man-made impervious surfaces that is set aside or reserved in perpetuity for the use of the public or the residents of the development. Development under this provision is intended to provide an innovative site planning design in harmony with the natural features and constraints of specific sites, among others. As the Applicant proposes a rezoning to a PDD, a minimum of 50% open space is required for all residential phases, and 10% for non-residential development. The Applicant is asking for a 45% open space for the entire project (See Attachment E). Staff's position on the matter is that the PDD open space requirements should be met. Condition #8 would require that residential development follow the 50% open space standard, and that non-residential phases follow the 10% open space standard.

1503.06 Non-Residential Uses (Complies)

A predominantly residential MDP District should, according to Article 15, include some provision for non-residential development to serve the residents of the PD. The Applicant proposes an 80-acre mixed use commercial development along Airport Road and the Southeast corner of the MDP site. The developer also proposes a school site and fire station site to serve future residents.

1503.07 Sanitary Sewer and Water Systems (Complies)

Per this Section of the Zoning Regulations, "[n]o building permits shall be issued for development within a PD zoning district until provisions have been made for connection onto community water and sanitary

sewer system or some other [ADEQ]-approved waste disposal system.” The MDP report includes policy statements that make such provisions explicit, in that a water improvement district or company would be formed prior to any development taking place. Similarly, a wastewater improvement district would have to be formed prior to a plat submittal. In lower-density phases along the northern portion of the project area, conventional septic systems would be used. Septic systems are allowed under Section 1503.07 “if a community sanitary sewer is not feasible.”

1503.08 Access, Circulation, and Street Improvements (Complies)

The Zoning Regulations indicate that PDDs shall have external access to at least one publicly maintained collector or arterial street and that the site shall be designed to discourage direct access to a predominantly residential street outside of the development. Furthermore, one additional external access to a collector or arterial street improved to minimum County standards is encouraged to improve overall circulation and provide emergency access. The developer has designated Airport Road as the primary access, with secondary access in future phases North to Marguerite Road. The policies of the MDP are written to require the Developer to adhere to mitigation and off-site improvements as recommended in the current and any future traffic analysis.

1503.09 Screening (Complies)

This Section requires that “[s]creening, as defined in Section 1805.02, shall be required along the exterior boundaries of all planned developments where a proposed non-residential use abuts a residential zoning district, unless this protection is provided by other means.” The Applicant has provided regulations and policies within the MDP Report stipulating that screening will be required according to this requirement on Page 33 of the MDP report. The language featured in this Section of the report is taken, as recommended, from existing County Zoning Regulations concerning screening and would require that non-residential uses be screened from residential uses with approved screening methods. The manufactured home park proposed in Phase 1 would, according to the MDP regulations, be subject to the development standards for such uses as found in Section 1812 of the Zoning Regulations. Such standards do include screening requirements as well.

1503.10 Landscaping (Complies)

The developer has included the following statement in Section IV.B of the MDP Report:

- Landscaping for common areas, open spaces and parks will be provided and maintained by the HOAs or designees as applicable throughout the MDP, subject to the Planned Development Landscape standards set forth in Section 1503.10 of the Zoning Regulations;

As a proposed Category B Growth Area, the Madison MDP would be subject to County Regulations concerning landscaping, as set forth in Section 1806 of the Zoning Regulations and Section 1820 (including drought-tolerant landscaping).

IV – 3. Compliance with Rezoning Factors (Section 2208.03)

Section 2208.03 of the Zoning Regulations provides a list of 14 evaluation factors. Where applicable, these factors or criteria form the basis for staff analysis of any rezoning request. In this case, 12 of these apply to the Madison 1240 Planned Development. With Conditions, this rezoning proposal complies with 9 of the 12 applicable factors.

1. Compliance with an Adopted Area Plan, Master Development Plan or Comprehensive Plan (Complies)

Although the Madison project is not within an approved Area Plan, if approved, future development within the MDP boundary would proceed in substantial conformance with the approved MDP.

As discussed in Section III of this Memorandum, the MDP includes regulations, development standards and policy statements that would ensure future development is in keeping not only with the Comprehensive Plan policies, but with other County regulations and policies as well.

2. Land Use/Concept Plan (Does Not Comply – See Attachment E and Condition #9)

The Applicant submitted an MDP in accordance with Article 4 of the Zoning Regulations, including an MDP and rezoning application, conceptual site plans, Traffic Impact Analysis (TIA), hydrological report and an MDP map and narrative. A phasing plan is included as well. Although the maps accompanying the proposal satisfy the Article 4 requirements relative to MDP maps and exhibits, Article 22 (Section 2208.03.B.1) requires a more detailed and thorough plan for non-residential uses than what is provided. For rezonings intended to allow residential development, a “conceptual subdivision plat and a statement

that a subdivision plat will be submitted within 18 months to 3 years” is required, and the submittal does not include such a plat. The Developer has provided a request to waive the time limit requirements relative to the rezoning as well as the MDP time limit stipulation (See Attachment E). Condition #9 would require the Developer to submit a subdivision tentative plat or development plan for Phase 1 within three years of Board approval.

3. Compliance with Applicable Site Development Standards (Complies)

As the proposal is a rezoning to a PDD, the developer has the option of drafting site development standards for the PD. This the developer has done, and much of the material in the development standards section of the MDP Report is drawn from the Cochise County Zoning Regulations.

There may be instances, as yet unknown, in which the MDP standards do not adequately address site development standards. At the request of staff, the developer has added the following language to the MDP report, stating that development will proceed

...in conformance with the PD District standards (Article 15) and as set forth in Article 18 of the zoning regulations. When any site development standard in article 18 conflicts with these regulations, the MDP standards shall override County standards; where development standards are not mentioned in the MDP standards, the applicable County regulations shall apply, subject to reasonable interpretation by the Planning Director as needed.”

4. Adjacent Districts Capable of Development (Complies)

Adjacent properties would remain capable of development if this proposal were approved.

5. Limitation on Non-Conforming Uses (Complies)

PD Districts are allowed considerable flexibility in terms of site coverage, design and density; the proposed rezoning would not create any non-conforming uses as proposed.

6. Compatibility of Existing Development (Does Not Comply)

The surrounding area is characterized by several rural homesites, large swaths of vacant land and grazing activities. The proposal would create, over time, a development which is largely incompatible with the character of the surrounding area.

7. Rezoning to More Intense Districts (Complies)

This factor evaluates whether a rezoning proposal to a more intensive District will include measures to protect adjacent development. Methods to achieve this end could include transition zones between more and less intensely developed areas, or enhanced screening, buffering or landscaping measures. The size and scope of the Madison proposal, given the varied development types proposed as well as the surrounding area, means compliance with this factor is difficult to achieve. However, there are some methods by which some measure of protection may be afforded.

Along the northern side of the tract, larger lot sizes are proposed which would provide some means of density transition towards the North. The MDP development standards for the Mixed Use Commercial area along the Southeast corner of the property does include provisions for screening and landscaping, and as such some protection may be possible in this area. The manufactured home park proposed as Phase 1 would be developed according to County regulations as set for in Section 1812, and this Section also includes screening and landscaping requirements. Finally, the PDD requirement that residential development include a 50% open space standard will help to alleviate impacts to neighboring properties.

8. Adequate Services and Infrastructure (Complies – See Condition #4)

The developer has submitted an acceptable Traffic Impact Analysis, which includes recommendations for strategies adequate to mitigate traffic impacts created by the development. The Madison MDP report, as discussed, includes policies linking future development to the recommendations in the TIA.

There are instances throughout Cochise County in which public roads in the County maintenance system are not under County ownership. Whenever possible, the County tries to acquire Right-of-Way along such roads in the maintenance system. Airport Road is such a road: that portion of Airport Road that fronts the Madison project area is maintained by the County but is not under County ownership. Staff recommends, as Condition #4, that the Developer acquire and dedicate Right-of-Way along the entire frontage of Airport Road within 90 days of Board approval.

9. Traffic Circulation/ Development Along Major Streets (Complies)

Primary access to the site is North from Airport Road, and South through Marguerite Road. A traffic impact analysis is included in the submittal, and the MDP policy statements make clear that the recommendations in this and future traffic studies will be adhered to.

10. Infill (Not Applicable)

This project is in a Rural plan area, and is therefore not considered to be infill development.

11. Water Conservation (Does Not Comply—See Condition #11)

Provisions for water conservation measures such as effluent re-use, recharge facilities, low-flow appliances, deed restrictions governing water use, drought-tolerant landscaping, limitations on irrigation, have not been addressed in the MDP analysis. The subject properties are not located within an adopted Water Conservation Overlay District; however, all residential and non-residential uses will be required to comply with Section 1820 of the Cochise County Zoning Regulations and the Cochise County Subdivision Regulations governing water conservation measures.

12. Public Input (Complies)

The Regulations require Applicants to send a Citizen Review letter (See Attachment F). The Developer did so prior to submittal, and reports no responses. The Planning Department has received minimal comment from neighbors regarding the proposal: one in favor and one opposing.

13. Hazardous Materials (Not Applicable)

No hazardous materials are proposed at this time. Should any use involving hazardous materials be proposed within the MDP area in the future, hazmat mitigation would be addressed at permitting phases.

14. Comprehensive or Area Plan Policies (Complies)

This factor concerns the compliance with applicable Comprehensive Plan, Area Plan, or MDP policies. As discussed in Section III of this Memo, the adoption of an MDP constitutes a Comprehensive Plan Amendment, and as such, the proposal would comply with this factor.

V. PUBLIC COMMENT

The Department mailed notices to neighboring property owners within 1,500 feet. Staff posted the property on June 27, 2011 and published a legal notice in the San Pedro Valley News-Sun on June 23, 2011. To date, the Department has received one letter from a neighbor opposing the request, and one in support.

VI. WAIVER REQUESTS (SEE ATTACHMENT E)

The Developer has asked for a Waiver to the time limit on development for an MDP, which is supported by staff for reasons previously discussed. The waiver request does not cite a specific regulation, but the requirements of Sections 406.06.B.12 and 2208.03.B.1 are the regulations that apply to the request:

1. Section 406.06B12 (MDP application): Development shall not exceed five years; and

2. Section 2208.03B1: (Rezoning application) Subdivision plat to be submitted within “18 months to 3 years”.

While a general time frame is provided in Attachment E for completion of the Madison MDP, specifics such as to when development would begin, and end, are lacking and are in any case difficult to predict. Section 2208.03.B.1 requires “a statement that a subdivision plat will be submitted within 18 months to 3 years.” Staff recommends, as Condition #9, approving the request, while holding the Developer to the maximum range offered in this Section. This would provide a target date by which development must begin. Staff supports a modification to Section 406.06.B.12 as well, but would prefer not to leave the development schedule open-ended. Rather, staff recommends, as Condition #10, that the Madison MDP achieves full build-out before January 1, 2020, unless otherwise extended by the Board. This condition would provide a target date for completion of the MDP. Any extension of these schedules, or revocation in the event that the target dates cannot be met, would have to be brought before the Board of Supervisors for consideration and action.

Included in Attachment E is the Developer’s request for a 5% overall reduction in open space as required by Article 15. The proposal is to provide 45% open space throughout the entire project area. Staff does not support this Modification request, preferring to uphold the requirement in Section 1505.03, that each residential phase retain 50% open space, and that non-residential phases uphold the 10% open space requirement (See Condition #8).

VII. SUMMARY AND CONCLUSION

If adopted by the Board of Supervisors, approval of the Madison 1240 MDP proposal would mean that a large area of unincorporated land would develop in an orderly fashion, with hard policies guaranteeing that adequate services and infrastructure will be in place to provide for such development.

In the proceeding Section of this Memo, staff has presented its analysis of the plan, checking the policies and provisions of the MDP Report against the applicable regulations governing the establishment of a MDP, the PDD, and of rezonings generally. Overall, the plan is in substantial conformance with each of these sets of criteria. Moreover, the Developer and Engineer have worked closely with staff to ensure that the MDP report and exhibits also have a firm foundation in the County Comprehensive Plan policies. The development parameters established by the MDP would, in staff’s view, pave the way for a number of subdivisions to be built over time, under conditions favorable to County regulations and policies concerning adequate infrastructure, public improvement standards, open space provisions, densities, water conservation, drainage and development standards.

The Developer has requested a waiver which would allow a longer build-out period for the plan area than what is provided in the County regulations, based in part on the size and scope of the project as well as market uncertainties. Staff generally supports the request, particularly in light of the size and scope of the project.

FACTORS IN FAVOR OF APPROVAL

1. On July 13, the Planning and Zoning Commission voted unanimously (5 – 0) to recommend approval of these Dockets to the Board of Supervisors.
2. The MDP Report, Plans, Maps and Exhibits generally conform to the Master Development Plan requirements as set forth in Section 406 of the Zoning Regulations;
3. The MDP proposal complies with all applicable requirements for the PDD;
4. The project complies with 9 of the 12 applicable Rezoning Criteria;
5. One neighbor has expressed support in writing for the proposal.

FACTOR AGAINST APPROVAL

1. One neighbor has expressed opposition to the proposal.

VIII. RECOMMENDATIONS

Based on the factors in favor of approval, staff recommends that the Board of Supervisors grant conditional approval of Dockets Z-11-03 and MDP-11-03. Staff offers the following conditions of approval for Board consideration:

1. Prior to any development for Phase 1, the Developer shall provide the County with an exaction towards improvement costs along Airport Road, in the amount of \$109,016.00. The remaining recommendations of the August 23, 2011 traffic study, as prepared by Task Engineering, shall be binding on the project; future traffic study recommendations shall also be adhered to as the project develops.
2. Upon Board of Supervisors approval of the Madison 1240 Master Development Plan, the tract shall be re-designated as a Category B Growth Area, with a "Developing" Plan Designation.
3. All development within the MDP area shall conform to the architectural guidelines, development standards, and other policies and regulations set forth in the MDP Report, Plan Map, Site Plans and other exhibits provided as part of the Madison 1240 MDP. Where there is any conflict between the MDP regulations or policies and those of the Cochise County Zoning Regulations, the MDP regulations shall take precedent. In the event that a development standard or other regulation is found to be missing from the MDP, such circumstance shall be resolved through the closest applicable Section of the County Zoning or Subdivision Regulations, subject to reasonable interpretation by the County Planning Director.
4. Within 90 days of Board approval, the Developer shall provide dedicated Right-of-Way along Airport Road for the entire MDP area frontage along this road;
5. Prior to the issuance of any building permits, the Applicant will provide a letter of intent to serve from a fire/emergency services provider;
6. Prior to the issuance of any land clearing permits, the Applicant will provide a Drainage Report that meets the standards and requirements of the County Highway and Floodplain Department and other applicable State and Federal Laws;
7. The developers shall be required to obtain all other necessary permits and licenses prior to the construction or operation of any use described in the MDP pursuant to local, state, and federal laws and regulations. Any proposed development plan, rezoning or land use that is not deemed to be in substantial conformance with the Madison MDP shall be subject to review by the Planning Department and may require an MDP amendment process;
8. In accordance with Section 1503.05, at least 50% of the gross area of any residential portion of the development shall be retained as open space; at least 10% of the gross area of any non-residential portion of the development shall be retained as open space;
9. Unless allowed by Board of Supervisors action, the Developer shall submit a development plan or subdivision tentative plat for Phase 1 within three years of Board approval, otherwise the Planned Development rezoning may be brought before the Board of Supervisors for revocation;
10. Unless allowed by Board of Supervisors action, the Madison MDP must be fully developed prior to January 1, 2020, otherwise the MDP may be brought before the Board of Supervisors for revocation.
11. All residential and commercial water uses will be required to comply with Section 1820 of the Cochise County Zoning Regulations and Section 412 of the Cochise County Subdivision Regulations;

12. The Applicant shall provide the County a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the Madison MDP parcels within thirty (30) days of approval from the Board of Supervisors;

Sample Motions (two are required): Mr. Chairman, I move to approve Docket Z-11-03, rezoning Parcels 202-35-002A, 002B, 005, 202-01-009C, 009D, 009E, and 202-23-004 from RU-4 to the Planned Development District, subject to the conditions as recommended by staff.

Mr. Chairman, I move to approve Docket MDP 11-01, approving the Madison 1240 Master Development Plan subject to the conditions as recommended by staff, and re-designating the area within the Madison 1240 project boundaries as a Category B Growth Area on the Comprehensive Plan Map.

IX. ATTACHMENTS

- A. Madison 1240 MDP Report
- B. Concept Plans and Exhibits
- C. "General Provisions" MDP Policy Statements
- D. Agency Comments
- E. Waiver Requests
- F. Citizen Review Letter and Public Comment
- G. Legal Notice

Department's Next Steps (if approved):

If the Board adopts the Zoning Ordinance, approving the Rezoning and MDP requests, the next step would be for the Chairman to sign the Resolution.

Impact of NOT Approving/Alternatives:

If the Board does not adopt the Ordinance, the 1,240-acre tract will remain as a Category D - Rural area on the Comprehensive Plan Map; the Zoning District boundaries would be unchanged, such that the Madison 1240 tract would remain within an RU-4 Zoning District.

To BOS Staff: Document Disposition/Follow-Up:

Please return a copy of the signed, recorded Ordinance for the Planning Department files.

Attachments

[Madison Staff Memo](#)

[Madison Attachments](#)

[Madison Ordinance](#)

[439_BOS Presentation Madison 1240_PPT](#)



COMMUNITY DEVELOPMENT DEPARTMENT

Planning, Zoning and Building Safety

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

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Carlos De La Torre, P.E., Director

MEMORANDUM

TO: Cochise County Board of Supervisors
FROM: Keith Dennis, Senior Planner
For: Michael Turisk, Interim Planning Director
SUBJECT: Dockets MDP-11-01 and Z-11-03 (Madison 1240)
DATE: September 14, 2011, for the September 27, 2011 Meeting

MASTER DEVELOPMENT PLAN AND REZONING REQUEST

The item consists of two Dockets, MDP-11-01 and Z-11-03, and is a proposal for a 1,240-acre Master Development Plan (MDP) West of Willcox, Arizona. The nature of the proposed development, which would take place in several phases, would include a rezoning of the entire tract to Planned Development District (PDD) in order to facilitate the MDP.

The MDP is proposed as a four-phase development plan. At full build-out, the MDP would include densities ranging from 12 dwellings per acre to one dwelling per four acres, and would include a commercial mixed use area. A maximum density of 1,200 residential units or an equivalent of commercial and residential units has been determined by the Analysis of Adequate Water Supply, dated April 19, 2005.

The subject property is located west of incorporated Willcox, Arizona, along the north side of Airport Road (between Mileposts 10 and 11). The Parcels subject to the Application are: 202-35-002A, 002B, 005, 202-01-009C, 009D, 009E, 202-23-004. The Applicant, James Lee, is represented by David Bohn of Kinetix Engineering.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Size: 1,240 Acres
Zoning: RU-4 (Rural, 1 dwelling per 4 acres)
Growth Area: D (Rural Growth Area)
Plan Designation: Rural
Area Plan: None Applicable
Existing Use: Grazing Land, Undeveloped
Proposed Use: Rezone to Planned Development District to allow development of a 1,240-acre Master Development Plan

Surrounding Zoning and Land Use

Direction	Zoning	Use(s)
North	RU-4	Marguerite Road, Rural Residential and Undeveloped Land
South	RU-4	Airport Road, Rural Residential and Undeveloped Land
East	RU-4	Judd Drive, Rural Residential and Undeveloped Land
West	RU-4	Rural Residential and Undeveloped Land

II. BACKGROUND

On July 13, 2011, the Planning and Zoning Commission voted unanimously (5 – 0) to forward these Dockets with a recommendation of conditional approval to the Board of Supervisors in two separate motions: the first for Docket Z-11-03, and the second for MDP 11-01. The Commission’s motions included staff recommendations regarding suggested approval conditions.

On August 23, 2011, the Board of Supervisors held a public hearing on the Docket. The Board tabled the item to a time certain, in order to hold a work session on the proposal.

On September 13, 2011, the Board held a work session to discuss issues surrounding the Madison MDP. The discussion largely concerned the need for cost-sharing on improvements to Airport Road. The Madison traffic study recommended that the Applicant be required to pave the road from the westernmost frontage of the property, east to Hamilton Road as part of Phase 1 traffic impact mitigation. However, as Airport Road has since been scheduled to be paved along this section in the near future, it was determined that the Developer should instead contribute a portion of the costs of these road improvements.

II. PARCEL HISTORY

There are no records of any permits or violations associated with the subject parcels.

In 2005, a previous owner submitted a proposal for an MDP for the same property (called Winchester, Docket MDP 05-01). The report and some of the accompanying materials constitute what might be called the “parent document,” of which the current proposal is a more mature derivation. The project was abandoned in 2006, before being presented to the Commission or Board. The current owner and developer, James Lee of Madison Diversified, then took ownership of the project, to include the tract itself as well as the MDP groundwork, such as the MDP Report, hydrology report, and soils report that had been completed for the Winchester MDP concept at that time.

In 2010, the developer submitted a proposal for a subdivision called “Madison 40” (S-10-01). This was intended to be the first phase of the larger Madison project, a 9-lot subdivision on 40 acres adjacent to Airport Road. The project was subsequently withdrawn, as the developer changed course and decided to revive and pursue efforts towards an MDP that would facilitate and govern the development of the entire 1,240 acre tract.

III. PROJECT DESCRIPTION

Master Planned Communities Defined

A Master Development Plan is defined in Article 4 of the Zoning Regulations as follows:

A master development plan is a duly adopted component of the Cochise County Comprehensive Plan that provides a detailed plan for the coordinated development of a specific area. A master development plan will address, at a minimum: basic densities; specific future land uses and boundaries thereof; the general character, extent, and location of major thoroughfares, collector streets, major drainageways, structures, open space, schools, parks, and community facilities, as applicable, for a designated area of Cochise County (406.01).

MDPs, when enacted by the Board of Supervisors, become the guiding policy vehicle for future land use, infrastructure improvement, subdivision development, architectural guidelines, and community facilities within the boundaries of the plan area. Future development within the area must abide by the policies and guidelines proffered in the MDP report; any rezoning that occurs within the MDP boundaries must also be in substantial conformance with the MDP policies. Thus, over the span of the MDP build-out, development in the area will be guided and informed by site specific data as provided in such documents as the MDP policy document proper, as well as soils and hydrology reports, water quality and adequacy analyses, and traffic impact studies. Policies specific to the MDP area are informed by these studies, with a whole, working, planned community being the intended result.

Planned Development District (PDD) Rezoning

As established in Article 15 of the Zoning Regulations, the PDD is an option for developers pursuing an MDP. PD Districts may, in fact, only be established within an approved Master Development Plan area, and development within such Districts must be in substantial conformance with the governing MDP. Master Development Plans need not be followed by a rezoning to a PD District, in other words, but rezonings to PD cannot take place outside the framework of an approved MDP.

As stated above, the goal of an MDP is to define a set of policies and development standards for the plan area, so as to facilitate the development of a planned community, with its own distinct identity and character. The PDD is a powerful tool that developers can utilize to achieve this end. Within the context of an approved MDP, a developer may essentially establish their own Zoning Districts within the plan area, with unique development standards, permitted, accessory and Special Uses, all of which serve, over time, to guide development towards the intended goal. In drafting the MDP report under current consideration, the developer has used the Cochise County Zoning Regulations as a starting point from which to craft these proposed Districts within the MDP area. The Districts proposed within the MDP Report would, upon Board approval, be established as the available zones for future development within the MDP area. These are described in detail in Section IV of the MDP Report, and are briefly described below:

Low-Density Residential (LDR), with 593 acres and lot sizes ranging from 1 acre to 4 acre subdivision plats;

High Density Residential (HDR), 28 acres which could include apartment dwellings, townhomes, zero lot line homes and similar products, with densities averaging one dwelling per 2,500 square feet;

Mobile Home Park (MHP), 32 acres, which would be subject to the development standards for Manufactured Home Parks (Section 1812); and

Mixed-Use District (MUD), 80 acres, which would allow a mixture of high-density housing, commercial and some light industrial uses.

The Madison project will have a capacity of 1,200 residential units, or an equivalent combination of residential and non-residential units.

Comprehensive Plan Amendment

Master Development Plans, when approved by the Board of Supervisors, serve as *an amendment to the Comprehensive Plan and will replace the existing, underlying growth category and plan designations for the property or properties that it addresses* (406.02).

Currently the project area carries a “Rural” Comprehensive Plan designation, within a Category D (Rural) Growth Area. The eastern boundary of the plan area borders the Willcox Category B Growth area, which is also the boundary of the Willcox Strategic Plan area. Staff’s position is that, should the MDP be approved, it would be appropriate to re-designate the plan area as a Category B (Community) Growth Area with a “Developing” Plan designation. If approved by the Board of Supervisors as recommended, Condition #2 would make this Comprehensive Plan amendment explicit.

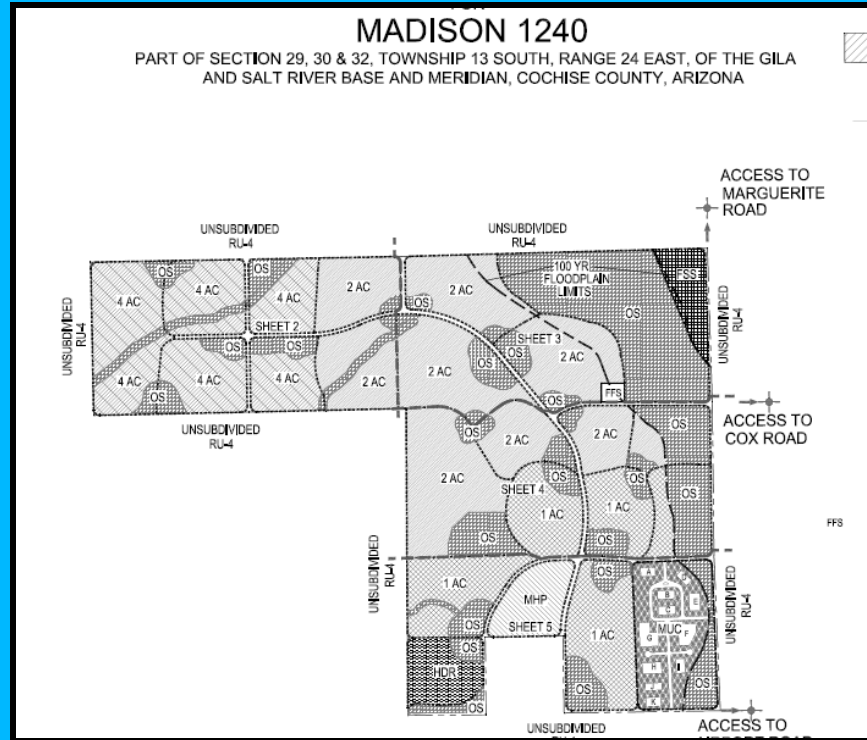
Although the proposal is an amendment to the Comprehensive Plan, and although the PD District allows the developer considerable flexibility with regard to development and use standards, the MDP policies as offered in the Report demonstrate a strong foundation in the policies of the Cochise County Comprehensive Plan, the Zoning Regulations, and the design standards of Cochise County regarding public improvements. For the benefit of decision makers and stakeholders, staff has separately attached Section IV.E.3 of the MDP Report (“General Administration”). Upon Board approval, these policies will serve as the policy mechanism governing all development in the MDP area, and will effectively establish the MDP area plan policies as an outgrowth of the broader set of policies and regulations of Cochise County. These are attached as Attachment C, and much of the analysis on the following pages will reference these important policy statements.

IV. MDP ANALYSIS

Below is the Planning Department’s analysis of the MDP proposal. The project is analyzed according to three sets of criteria:

- The MDP requirements as set forth in Article 4 of the Zoning Regulations (Section 406);
- The Planned Development District requirements per Article 15; and
- The Rezoning Factors as provided in Section 2208.03.

For ease of reference, we have, where possible, quoted the applicable sections from the Regulations.



IV – 1. Compliance with Submittal Requirements for Master Development Plans (Section 406.06)

A. The applicant shall submit a master development plan map, drawn at a scale of either 50, 100, or 200 feet to one inch, or at a scale approved by the Zoning Inspector, and including the following information: (Complies)

- 1. Title of the development, a legal description of the property, parcel number(s), name of the developer and registered land surveyor or engineer, date of the plan, a north arrow and scale.(Complies)**
- 2. A vicinity map showing the general location of the property, development and any incorporated city boundaries within three miles of the development. (Complies)**
- 3. Boundary lines and ties to at least two section corners or quarter corners and dimensions of plan area boundaries. Section lines and mid-section lines shall be clearly designated. (Complies)**
- 4. Existing land uses, existing zoning status, roads and wash corridors within the designated area and within ¼ mile of the proposed plan area. (Complies)**
- 5. Proposed sizes of the various types of lots or parcels to be developed (acreage or square footage). (Complies)**

6. General topography, at 10-foot contour intervals, all drainageways having a contributing drainage area of 150 acres or more, and all flood hazard zones. (Complies, with MDP report exhibits)

7. Major street layout, including: existing major thoroughfares serving, traversing, abutting, or otherwise affecting or affected by the proposed plan area; proposed collector and arterial streets; existing easements and rights-of-way within the plan area. (Complies)

8. If more than one zoning district is proposed, boundaries of the different zoning districts. (Complies)

9. Locations of proposed and existing structures, land use locations, major off-street parking and loading areas, open space, pedestrian circulation systems, bike and/or equestrian trails, public facilities such as schools, and approximate densities. (Complies)

10. General location of utilities, easements and other service facilities (Complies)

11. Intended phasing of the development, if applicable (Complies)

The maps and exhibits described above are included as Attachment B to this Memo.

The Applicant has submitted a Phasing Plan as part of the MDP report. Phase 1 is slated for construction as a Mobile Home Park. Phase 2 is proposed as “Low Density Residential” with an average lot size of two acres. Phase 3 is similarly characterized, with average lot sizes of four acres. Finally, Phase 4 would see the development of the High Density Residential and Mixed Use Commercial areas designated along Airport Road.

B. The Master Development Plan map shall be accompanied by a written report, to be adopted as a part of the Master Development Plan, that includes the following information:

1. Methods of screening and buffering, where incompatible land use configurations necessitate protection for the proposed development or surrounding development (Complies)

The Plan document provides for screening and buffering on Page 32 of the Report, in Section IV.B.6: “At the time of site plan review, all commercial developments shall submit a plan detailing fencing, walls, landscaping, building placement, and other details, which must be in conformance with the PD design guidelines for commercial structures.”

2. Provisions for creation, use and maintenance of open space, recreation areas and preservation of scenic features of the land (Complies)

The developer has included provisions in Section IV of the MDP report (Attachment C) which address the requirements of 406.06.B.2, above:

- “Prior to tentative plat approval for any phase of development, the Applicant shall provide a draft charter for a property maintenance district which will be responsible for

HOAs within the Plan area. The draft CC&Rs shall include provisions which obligate the association to maintain all open space, trail system, common areas parks, landscaping in common areas and medians, entry features, and etc within the development. The CC&Rs shall also include deed restrictions enforcing the site development standards proposed within the MDP Area.”

3. General provisions for pedestrian, bicycle and equestrian circulation throughout the development (Complies)

The property maintenance district discussed above would ultimately be responsible for the upkeep of amenities such as described here. The design and construction of these are provided for through the following provision in Section IV of the MDP report:

- “A detailed pedestrian and equestrian circulation plan shall accompany any tentative plat submittal within the Plan area, which generally conforms to the “Pedestrian Circulation Exhibit” accompanying the MDP proposal. The pedestrian circulation system will comply with the standards for Planned Development District Pedestrian Circulation Systems as provided in Section 1503.08.D of the Zoning Regulations.”

4. Statement specifying how roads, State-approved waste disposal, water supply, fire protection, and utilities will be provided, with approximate timing and location, including closest sewer and community waterlines and capacity to serve this development (Complies)

As demonstrated in Attachment C, policy provisions have been made that will address all of these requirements prior to the undertaking of any development in the plan area. These include the submittal of subdivision plats and commercial permitting which will require all public improvements to be constructed to Cochise County standards, and service commitments from fire and utility service providers.

5. Statement specifying how amenities are to be provided (sidewalks, open space, parks, recreational facilities, streetlights, curb and gutter, landscaping) including approximate timing and location (Complies)

As discussed above, subdivision plats and commercial permits will be submitted for these amenities and infrastructure improvements. The design and construction of these will, according to the MDP policies, meet with County standards for such improvements.

6. Statement of general kinds of development standards intended to be controlled through deed restrictions (i.e., architectural design, building height, construction materials, common area development and maintenance, landscaping, screening and buffering of individual sites (Complies)

As discussed, CC&Rs will be recorded and enforced by the property owners’ association through deed restrictions. In addition to deed restrictions, the Madison MDP policies will themselves govern future subdivision development.

7. Statement of the projected population and anticipated impact of the development upon existing regional utilities and community facilities and services including, but not limited to water, electricity, sewer and solid waste disposal, schools and parks, police and fire protection: (Complies)

The MDP policies stipulate that water, wastewater and property maintenance districts or other equivalent bodies shall be formed to ensure adequacy for these resources.

With regard to law enforcement, fire and school district impacts, these impacts are not adequately addressed in the MDP report. However, the requirement for service commitments from such organizations would be incorporated as governing policies of the MDP should it be approved as recommended.

8. Report or narrative assessing adequacy of water supply to serve the proposed development (Complies)

The report contains an Analysis of Adequate Water Supply issued by the Department of Water Resources on April 19, 2005 (See Attachment D). This determination is a vital first step in obtaining a full determination of water adequacy from ADWR. The analysis allows for a capacity of up to 1200 dwelling units, or an equivalent combination of residential and non-residential units.

9. Projected trip generation for the entire project at completion. If projected trip generation is of sufficient magnitude to significantly increase traffic, thereby reducing the level of service on one or more abutting or surrounding streets, or 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, at, or over capacity, a traffic impact study including the following additional information is necessary (Complies, subject to Condition #1):

- a. Survey of thoroughfares, existing and planned, within at least ½ mile of the proposed plan area and may extend to collector and arterial streets serving the site.
- b. Consolidation of existing traffic data; estimates of future traffic.
- c. Trip assignments and their effect on traffic flow along streets serving the site, proposed thoroughfare alignments, capacities, signalization requirements, lanes, intersection configurations, etc.
- d. Timing and methods of right-of-way improvements as necessary to serve projected traffic loads.
- e. Current level of improvement of major routes serving the site (i.e. built to County standards)
- f. An inventory and analysis of off-site improvements to be made, with approximate timing for each phasing.

g. Provisions for controlling access to major streets.

The Applicant has provided a robust initial traffic study that has been revised per the County Transportation Planner comments. The policy provisions in Section IV.E of the MDP report stipulate that traffic-related mitigation recommendations and methods in the TIA will be adhered to as the area develops.

The August 23, 2011 traffic study, prepared by Task Engineering, recommends that the section of Airport Road from the Westernmost frontage of the project area, East to Hamilton Road be improved with a paved surface. The County will instead require an exaction from the developer for on-going improvements to Airport Road, in the amount of \$109,016.00 (See Condition #1). The other recommendations of the August 23rd, 2011 traffic study will still be binding on the project.

10. Provisions for water conservation measures such as effluent re-use, recharge facilities, low-flow appliances, deed restrictions governing water use, drought-tolerant landscaping, limitations on irrigation, or others (Complies)

As with other requirements, the policy provisions in Section IV.E of the MDP report will ensure that County-approved water conservation methods will be employed:

- Except as explicitly modified herein, the MDP area shall be subject to the applicable policies of the Comprehensive Plan, related to Master Development Plans, Water Conservation and Transportation. The Water Conservation standards in Section 1820 of the Zoning Regulations shall also apply to all new construction.

11. Soils analyses for any proposed plan area shown on the most recent soil survey (USDA, Natural Resources Conservation Service) as containing soils having moderate to severe erosion hazard or corrosivity (Complies)

The Applicant has provided a Soils Evaluation Report as part of the on-site application package. However, more site specific soils analysis will be required as part of the subdivision and permitting processes for future development phases.

12. 3-Dimensional renderings of the development proposal overlaid onto aerials or maps showing the visual context of the proposed development in relation to existing development or staking when appropriate to evaluate impact on views (Waived – Not Applicable)

Section 406.06.C allows the Zoning Inspector to waive requirements of Sections 406.06.A or B where deemed appropriate. The Developer was relieved of this requirement during the application process.

13. Statement of development not to exceed 5 years from approval unless otherwise approved by the Board of Supervisors (Does not Comply – See Condition #10 and Attachment E)

The Applicant has asked for a Waiver to this requirement, citing uncertain market conditions, and the size and scope of the project as requiring a longer period until full build out is reached. The MDP Report projects a 15-year time frame for full development. Attachment E is the Engineer's request for Waiver from this requirement, and includes the Developer's rationale for the request. Staff can support the request given the scale and scope of the project. Staff offers the Planning Department recommendation on this matter as Condition #10, which provides a period of just over eight years for development (January 1, 2020), unless otherwise authorized by the Board of Supervisors.

IV – 2. Compliance with Applicable Site Development Standards for Planned Development Districts (Section 1503)

MDPs should be designed with the intent to minimize negative impacts to properties adjacent to the development, minimize impacts upon community facilities and services, prevent undue hazards to people or property on or off site from traffic, flooding, erosion, subsidence, soil slipping or other dangers, annoyances or inconveniences and protect the visual and physical character of the site.

1503.01 Minimum Development Area (Complies)

The minimum site area allowed for MDPs is 10 acres; at 1,240 acres, Madison meets this standard.

1503.02 Density (Complies)

Density within a PDD is limited only to what the developer can provide in terms of adequate water, sewer, utility and road infrastructure and improvements. Due to water availability, the proposed development will be limited to 1,200 residential dwellings or an equivalent combination of residential and commercial. Upon approval by the Board of Supervisors, the MDP report policies and regulations would become the governing policy document for the MDP area, thereby codifying the provision of such infrastructure and improvements.

1503.03 Site Coverage and Design (Complies)

The developer has the option of creating site coverage and design standards. Section 1503.03 recommends using development standards from similar Districts for site coverage standards, and the Developer has done so. The proposed PD development standards include provisions for permitted and special uses, accessory uses, setbacks and distances between structures, as well as site coverage standards. More detail-specific design evaluation will occur at the subdivision plat or commercial permit review stage.

1503.04 Setbacks (Complies)

Setbacks for all uses, including site design, building design, screening, landscaping, and open space, are provided to alleviate potential land use conflicts. Again, more detail-specific design evaluation will occur at the subdivision review or permitting stage.

1503.05 Open Space (Does Not Comply - See Condition #8)

Open space is that area of land not occupied by buildings, towers, walls, billboards, or man-made impervious surfaces that is set aside or reserved in perpetuity for the use of the public or the residents of the development. Development under this provision is intended to provide an innovative site planning design in harmony with the natural features and constraints of specific sites, among others. As the Applicant proposes a rezoning to a PDD, a minimum of 50% open space is required for all residential phases, and 10% for non-residential development. The Applicant is asking for a 45% open space for the entire project (See Attachment E). Staff's position on the matter is that the PDD open space requirements should be met. Condition #8 would require that residential development follow the 50% open space standard, and that non-residential phases follow the 10% open space standard.

1503.06 Non-Residential Uses (Complies)

A predominantly residential MDP District should, according to Article 15, include some provision for non-residential development to serve the residents of the PD. The Applicant proposes an 80-acre mixed use commercial development along Airport Road and the Southeast corner of the MDP site. The developer also proposes a school site and fire station site to serve future residents.

1503.07 Sanitary Sewer and Water Systems (Complies)

Per this Section of the Zoning Regulations, “[n]o building permits shall be issued for development within a PD zoning district until provisions have been made for connection onto community water and sanitary sewer system or some other [ADEQ]-approved waste disposal system.” The MDP report includes policy statements that make such provisions explicit, in that a water improvement district or company would be formed prior to any development taking place. Similarly, a wastewater improvement district would have to be formed prior to a plat submittal. In lower-density phases along the northern portion of the project area, conventional septic systems would be used. Septic systems are allowed under Section 1503.07 “if a community sanitary sewer is not feasible.”

1503.08 Access, Circulation, and Street Improvements (Complies)

The Zoning Regulations indicate that PDDs shall have external access to at least one publicly maintained collector or arterial street and that the site shall be designed to discourage direct access to a predominantly residential street outside of the development. Furthermore, one additional external access to a collector or arterial street improved to minimum County standards is encouraged to improve overall circulation and provide emergency access. The developer has designated Airport Road as the primary access, with secondary access in future phases North to Marguerite Road. The policies of the MDP are written to require the Developer to adhere to mitigation and off-site improvements as recommended in the current and any future traffic analysis.

1503.09 Screening (Complies)

This Section requires that “[s]creening, as defined in Section 1805.02, shall be required along the exterior boundaries of all planned developments where a proposed non-residential use abuts a residential zoning district, unless this protection is provided by other means.” The Applicant has provided regulations and policies within the MDP Report stipulating that screening will be required according to this requirement on Page 33 of the MDP report. The language featured in this Section of the report is taken, as recommended, from existing County Zoning Regulations concerning screening and would require that non-residential uses be screened from residential uses with approved screening methods. The manufactured home park proposed in Phase 1 would, according to the MDP regulations, be subject to the development standards for such uses as found in Section 1812 of the Zoning Regulations. Such standards do include screening requirements as well.

1503.10 Landscaping (Complies)

The developer has included the following statement in Section IV.B of the MDP Report:

- Landscaping for common areas, open spaces and parks will be provided and maintained by the HOAs or designees as applicable throughout the MDP, subject to the Planned Development Landscape standards set forth in Section 1503.10 of the Zoning Regulations;

As a proposed Category B Growth Area, the Madison MDP would be subject to County Regulations concerning landscaping, as set forth in Section 1806 of the Zoning Regulations and Section 1820 (including drought-tolerant landscaping).

IV – 3. Compliance with Rezoning Factors (Section 2208.03)

Section 2208.03 of the Zoning Regulations provides a list of 14 evaluation factors. Where applicable, these factors or criteria form the basis for staff analysis of any rezoning request. In this case, 12 of these apply to the Madison 1240 Planned Development. With Conditions, this rezoning proposal complies with 9 of the 12 applicable factors.

1. Compliance with an Adopted Area Plan, Master Development Plan or Comprehensive Plan (Complies)

Although the Madison project is not within an approved Area Plan, if approved, future development within the MDP boundary would proceed in substantial conformance with the approved MDP.

As discussed in Section III of this Memorandum, the MDP includes regulations, development standards and policy statements that would ensure future development is in keeping not only with the Comprehensive Plan policies, but with other County regulations and policies as well.

2. Land Use/Concept Plan (Does Not Comply – See Attachment E and Condition #9)

The Applicant submitted an MDP in accordance with Article 4 of the Zoning Regulations, including an MDP and rezoning application, conceptual site plans, Traffic Impact Analysis (TIA), hydrological report and an MDP map and narrative. A phasing plan is included as well. Although the maps accompanying the proposal satisfy the Article 4 requirements relative to MDP maps and exhibits, Article 22 (Section 2208.03.B.1) requires a more detailed and thorough

plan for non-residential uses than what is provided. For rezonings intended to allow residential development, a “conceptual subdivision plat and a statement that a subdivision plat will be submitted within 18 months to 3 years” is required, and the submittal does not include such a plat. The Developer has provided a request to waive the time limit requirements relative to the rezoning as well as the MDP time limit stipulation (See Attachment E). Condition #9 would require the Developer to submit a subdivision tentative plat or development plan for Phase 1 within three years of Board approval.

3. Compliance with Applicable Site Development Standards (Complies)

As the proposal is a rezoning to a PDD, the developer has the option of drafting site development standards for the PD. This the developer has done, and much of the material in the development standards section of the MDP Report is drawn from the Cochise County Zoning Regulations.

There may be instances, as yet unknown, in which the MDP standards do not adequately address site development standards. At the request of staff, the developer has added the following language to the MDP report, stating that development will proceed

...in conformance with the PD District standards (Article 15) and as set forth in Article 18 of the zoning regulations. When any site development standard in article 18 conflicts with these regulations, the MDP standards shall override County standards; where development standards are not mentioned in the MDP standards, the applicable County regulations shall apply, subject to reasonable interpretation by the Planning Director as needed.”

4. Adjacent Districts Capable of Development (Complies)

Adjacent properties would remain capable of development if this proposal were approved.

5. Limitation on Non-Conforming Uses (Complies)

PD Districts are allowed considerable flexibility in terms of site coverage, design and density; the proposed rezoning would not create any non-conforming uses as proposed.

6. Compatibility of Existing Development (Does Not Comply)

The surrounding area is characterized by several rural homesites, large swaths of vacant land and grazing activities. The proposal would create, over time, a development which is largely incompatible with the character of the surrounding area.

7. Rezonings to More Intense Districts (Complies)

This factor evaluates whether a rezoning proposal to a more intensive District will include measures to protect adjacent development. Methods to achieve this end could include transition zones between more and less intensely developed areas, or enhanced screening, buffering or landscaping measures. The size and scope of the Madison proposal, given the varied development types proposed as well as the surrounding area, means compliance with this factor is difficult to achieve. However, there are some methods by which some measure of protection may be afforded.

Along the northern side of the tract, larger lot sizes are proposed which would provide some means of density transition towards the North. The MDP development standards for the Mixed Use Commercial area along the Southeast corner of the property does include provisions for

screening and landscaping, and as such some protection may be possible in this area. The manufactured home park proposed as Phase 1 would be developed according to County regulations as set for in Section 1812, and this Section also includes screening and landscaping requirements. Finally, the PDD requirement that residential development include a 50% open space standard will help to alleviate impacts to neighboring properties.

8. Adequate Services and Infrastructure (Complies – See Condition #4)

The developer has submitted an acceptable Traffic Impact Analysis, which includes recommendations for strategies adequate to mitigate traffic impacts created by the development. The Madison MDP report, as discussed, includes policies linking future development to the recommendations in the TIA.

There are instances throughout Cochise County in which public roads in the County maintenance system are not under County ownership. Whenever possible, the County tries to acquire Right-of-Way along such roads in the maintenance system. Airport Road is such a road: that portion of Airport Road that fronts the Madison project area is maintained by the County but is not under County ownership. Staff recommends, as Condition #4, that the Developer acquire and dedicate Right-of-Way along the entire frontage of Airport Road within 90 days of Board approval.

9. Traffic Circulation/ Development Along Major Streets (Complies)

Primary access to the site is North from Airport Road, and South through Marguerite Road. A traffic impact analysis is included in the submittal, and the MDP policy statements make clear that the recommendations in this and future traffic studies will be adhered to.

10. Infill (Not Applicable)

This project is in a Rural plan area, and is therefore not considered to be infill development.

11. Water Conservation (Does Not Comply—See Condition #11)

Provisions for water conservation measures such as effluent re-use, recharge facilities, low-flow appliances, deed restrictions governing water use, drought-tolerant landscaping, limitations on irrigation, have not been addressed in the MDP analysis. The subject properties are not located within an adopted Water Conservation Overlay District; however, all residential and non-residential uses will be required to comply with Section 1820 of the Cochise County Zoning Regulations and the Cochise County Subdivision Regulations governing water conservation measures.

12. Public Input (Complies)

The Regulations require Applicants to send a Citizen Review letter (See Attachment F). The Developer did so prior to submittal, and reports no responses. The Planning Department has received minimal comment from neighbors regarding the proposal: one in favor and one opposing.

13. Hazardous Materials (Not Applicable)

No hazardous materials are proposed at this time. Should any use involving hazardous materials be proposed within the MDP area in the future, hazmat mitigation would be addressed at permitting phases.

14. Comprehensive or Area Plan Policies (Complies)

This factor concerns the compliance with applicable Comprehensive Plan, Area Plan, or MDP policies. As discussed in Section III of this Memo, the adoption of an MDP constitutes a Comprehensive Plan Amendment, and as such, the proposal would comply with this factor.

V. PUBLIC COMMENT

The Department mailed notices to neighboring property owners within 1,500 feet. Staff posted the property on June 27, 2011 and published a legal notice in the San Pedro Valley News-Sun on June 23, 2011. To date, the Department has received one letter from a neighbor opposing the request, and one in support.

VI. WAIVER REQUESTS (SEE ATTACHMENT E)

The Developer has asked for a Waiver to the time limit on development for an MDP, which is supported by staff for reasons previously discussed. The waiver request does not cite a specific regulation, but the requirements of Sections 406.06.B.12 and 2208.03.B.1 are the regulations that apply to the request:

1. Section 406.06B12 (MDP application): Development shall not exceed five years; and
2. Section 2208.03B1: (Rezoning application) Subdivision plat to be submitted within “18 months to 3 years”.

While a general time frame is provided in Attachment E for completion of the Madison MDP, specifics such as to when development would begin, and end, are lacking and are in any case difficult to predict. Section 2208.03.B.1 requires “a statement that a subdivision plat will be submitted within 18 months to 3 years.” Staff recommends, as Condition #9, approving the request, while holding the Developer to the maximum range offered in this Section. This would provide a target date by which development must begin. Staff supports a modification to Section 406.06.B.12 as well, but would prefer not to leave the development schedule open-ended. Rather, staff recommends, as Condition #10, that the Madison MDP achieves full build-out before January 1, 2020, unless otherwise extended by the Board. This condition would provide a target date for completion of the MDP. Any extension of these schedules, or revocation in the event that the target dates cannot be met, would have to be brought before the Board of Supervisors for consideration and action.

Included in Attachment E is the Developer’s request for a 5% overall reduction in open space as required by Article 15. The proposal is to provide 45% open space throughout the entire project area. Staff does not support this Modification request, preferring to uphold the requirement in Section 1505.03, that each residential phase retain 50% open space, and that non-residential phases uphold the 10% open space requirement (See Condition #8).

VII. SUMMARY AND CONCLUSION

If adopted by the Board of Supervisors, approval of the Madison 1240 MDP proposal would mean that a large area of unincorporated land would develop in an orderly fashion, with hard

policies guaranteeing that adequate services and infrastructure will be in place to provide for such development.

In the proceeding Section of this Memo, staff has presented its analysis of the plan, checking the policies and provisions of the MDP Report against the applicable regulations governing the establishment of a MDP, the PDD, and of rezonings generally. Overall, the plan is in substantial conformance with each of these sets of criteria. Moreover, the Developer and Engineer have worked closely with staff to ensure that the MDP report and exhibits also have a firm foundation in the County Comprehensive Plan policies. The development parameters established by the MDP would, in staff's view, pave the way for a number of subdivisions to be built over time, under conditions favorable to County regulations and policies concerning adequate infrastructure, public improvement standards, open space provisions, densities, water conservation, drainage and development standards.

The Developer has requested a waiver which would allow a longer build-out period for the plan area than what is provided in the County regulations, based in part on the size and scope of the project as well as market uncertainties. Staff generally supports the request, particularly in light of the size and scope of the project.

FACTORS IN FAVOR OF APPROVAL

1. On July 13, the Planning and Zoning Commission voted unanimously (5 – 0) to recommend approval of these Dockets to the Board of Supervisors.
2. The MDP Report, Plans, Maps and Exhibits generally conform to the Master Development Plan requirements as set forth in Section 406 of the Zoning Regulations;
3. The MDP proposal complies with all applicable requirements for the PDD;
4. The project complies with 9 of the 12 applicable Rezoning Criteria;
5. One neighbor has expressed support in writing for the proposal.

FACTOR AGAINST APPROVAL

1. One neighbor has expressed opposition to the proposal.

VIII. RECOMMENDATIONS

Based on the factors in favor of approval, staff recommends that the Board of Supervisors grant conditional approval of Dockets Z-11-03 and MDP-11-03. Staff offers the following conditions of approval for Board consideration:

1. Prior to issuance of any permit, the Developer shall provide the County with an exaction towards improvement costs along Airport Road, in the amount of \$109,016.00. The remaining recommendations of the August 23, 2011 traffic study, as prepared by Task

Engineering, shall be binding on the project; future traffic study recommendations shall also be adhered to as the project develops;

2. Upon Board of Supervisors approval of the Madison 1240 Master Development Plan, the tract shall be re-designated as a Category B Growth Area, with a “Developing” Plan Designation.
3. All development within the MDP area shall conform to the architectural guidelines, development standards, and other policies and regulations set forth in the MDP Report, Plan Map, Site Plans and other exhibits provided as part of the Madison 1240 MDP. Where there is any conflict between the MDP regulations or policies and those of the Cochise County Zoning Regulations, the MDP regulations shall take precedent. In the event that a development standard or other regulation is found to be missing from the MDP, such circumstance shall be resolved through the closest applicable Section of the County Zoning or Subdivision Regulations, subject to reasonable interpretation by the County Planning Director.
4. Within 90 days of Board approval, the Developer shall provide dedicated Right-of-Way along Airport Road for the entire MDP area frontage along this road;
5. Prior to the issuance of any building permits, the Applicant will provide a letter of intent to serve from a fire/emergency services provider;
6. Prior to the issuance of any land clearing permits, the Applicant will provide a Drainage Report that meets the standards and requirements of the County Highway and Floodplain Department and other applicable State and Federal Laws;
7. The developers shall be required to obtain all other necessary permits and licenses prior to the construction or operation of any use described in the MDP pursuant to local, state, and federal laws and regulations. Any proposed development plan, rezoning or land use that is not deemed to be in substantial conformance with the Madison MDP shall be subject to review by the Planning Department and may require an MDP amendment process;
8. In accordance with Section 1503.05, at least 50% of the gross area of any residential portion of the development shall be retained as open space; at least 10% of the gross area of any non-residential portion of the development shall be retained as open space;
9. Unless allowed by Board of Supervisors action, the Developer shall submit a development plan or subdivision tentative plat for Phase 1 within three years of Board approval, otherwise the Planned Development rezoning may be brought before the Board of Supervisors for revocation;
10. Unless allowed by Board of Supervisors action, the Madison MDP must be fully developed prior to January 1, 2020, otherwise the MDP may be brought before the Board of Supervisors for revocation.

11. All residential and commercial water uses will be required to comply with Section 1820 of the Cochise County Zoning Regulations and Section 412 of the Cochise County Subdivision Regulations; and
12. The Applicant shall provide the County a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the Madison MDP parcels within thirty (30) days of approval from the Board of Supervisors.

Sample Motions (two are required): *Mr. Chairman, I move to approve Docket Z-11-03, rezoning Parcels 202-35-002A, 002B, 005, 202-01-009C, 009D, 009E, and 202-23-004 from RU-4 to the Planned Development District, subject to the conditions as recommended by staff.*

Mr. Chairman, I move to approve Docket MDP 11-01, approving the Madison 1240 Master Development Plan subject to the conditions as recommended by staff, and re-designating the area within the Madison 1240 project boundaries as a Category B Growth Area on the Comprehensive Plan Map.

IX. ATTACHMENTS

- A. Madison 1240 MDP Report
- B. Concept Plans and Exhibits
- C. "General Provisions" MDP Policy Statements
- D. Agency Comments
- E. Waiver Requests
- F. Citizen Review Letter and Public Comment
- G. Legal Notice

**MASTER DEVELOPMENT PLAN AND PLANNED DEVELOPMENT
DISTRICT
FOR "MADISON 1240"**

Located in the Cochise County, Arizona.

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Job # 09020
Prepared: June 2011



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Appendix 'C'	Arizona Department of Water Resources – Analysis of Adequate Water Supply
Appendix 'D'	Traffic Impact Analysis

Madison 1240 Master Development Plan and Planned Development District

I. EXISTING CONDITIONS

A. Summary

In 2005, Madison Diversified purchased the subject property which is approximately 1240 acres and has been used as agricultural grazing land for many years, as well as it has been subject to grazing lease agreements.

The preliminary concept of the Madison Master Development Plan is derived by the vision statement "Old West Fun in a 21st Century Style" and by an in depth marketing due diligence analysis of the site. The location of the Madison Master Development Plan (MDP) in the context of Cochise County is shown as Exhibit-B and a regional location map in relationship to other master-planned communities is included as Exhibit-A.

Envisioned as a development featuring a range of housing, the subject property will offer low residential lot sizes ranging from approximately 1 acre to about 4 acre estates along with high density product with a 2500 SF minimum lot size. Residential densities will be greater at the southern end of the property than at the northern and northeastern end. The property will also contain commercial space both for the community and the town of Wilcox and natural open space interconnected through pedestrian/equestrian greenways. The core residential areas of Madison will be accessible through two main access points. The northern access will be through an extension of Marguerite Road and the southern access through Airport Road.

The community by design will be inclusive. Everyone will be welcome to live and enjoy the natural beauty of the Winchester Mountains with the conveniences that Wilcox and Cochise County has to offer. It is expected that a percentage of the community will be composed of active adults moving in from different parts of the country, as well as housing for employers and employees of local business and organizations that have recently expanded or intends to expand in the future. Anyone in the Wilcox area will be welcome to establish in Madison a residence or a vacation house. Buildings, building materials, building orientations, landscape design and open space layout will follow principles of environmental consciousness and sustainability.

This Master Development Plan document intends to address, Master Development Plan requirements for a Master Development Plan (MDP) as set forth in Article 4 (Section 406.06) of the Cochise County Zoning Code and present the foundation for a community of mixed uses, containing of a range of residential types and densities, commercial, recreational and open space areas.

B. Project location and legal description

The Madison Master Development Plan is located approximately two miles west of the incorporated limits of the City of Wilcox in Cochise County along the north and of Airport Road. It contains five parcels with a total of 1240 acres and an access easement described as follows:

Parcel I: 202-01-009A 801.73 acres

Lots 3 and 4,

The Southeast quarter, and

The East half of the Southwest quarter of Section 30;

The North half, and

The North Half of the South Half of Section 32

All in Township 13 south, Range 24 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona;

EXCEPT as to the South half of the Southeast quarter of Section 30, all the oil and mineral rights as reserved in Deed recorded in Book 131, Deeds of Real Estate, Page 293, records of Cochise County, Arizona.

Parcel II: 202-32-0040 320.00 acres

The Southeast quarter; and the Southeast quarter of Section 29, Township 13 South, Range 24 East of the Gila and Salt River Base and meridian, Cochise County, Arizona; except as to the Southeast quarter, 51% of all oil, gas and mineral rights as reserved in Deed recorded in Book 134, Deeds of Real Estate, page 467, records of Cochise County Arizona.

Parcel III: 202-35-002B 40.80 acres

The Southwest quarter of the Southeast quarter of Section 32, Township 13 South, Range 24 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona.

Parcel IV: 202-35-0052 40.69 acres

The Southwest quarter of the Southeast quarter of Section 32, Township 13 South, Range 24 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona.

Parcel V: 202-35-002 40.93 acres

The Southwest quarter of the Southeast quarter of Section 32, Township 13 South, Range 24 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona.

Parcel VI: 202-35-0049

Easement for ingress, egress and utilities over the East 60 feet of the Northwest quarter of Section 29, Township 13 South, Range 24 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona.

1. Existing Uses/Zoning/Comprehensive Plan Designation

Existing Zone: RU-4

The site is currently vacant and undeveloped. Grazing is the only current use of some areas within the site. There is an old well that is no longer in use.

The site is outside Growth Category A, B, and C Boundaries, as presented on the Cochise County Comprehensive Plan Designation Map of November, 2001.

The Comprehensive Plan designated the entire Madison Area as Growth Category D (rural area designation).

2. Surrounding Land Uses/Surrounding Zoning

Most of the surrounding is rural housing and ranches. Cochise County Regional Airport is about two miles from the site.

3. Tax Assessor Parcel Number

The tax parcel numbers for the subject property are 202-01-0095, 202-32-0040, 202-35-002A, 202-35-002B, and 202-35-0052.

C. Soils

Western Technologies Inc., prepared a complete geotechnical evaluation in March 2004. A copy of this report is included in Appendix A. A summary of the findings could be expressed as follows:

Surface soils consist of medium to very dense clayey and silky sand and firm to hard sandy clay. Near surface soils are of low to medium plasticity. Zones of light carbonate cementation were encountered in test borings. On-site sub soils near

shallow foundation level exhibit low compressibility at existing water contents. Low to medium additional compression occurs when the water content is increased. Near surface soils are of low to medium plasticity. These clayey soils exhibit low to high expansion potential when re-compacted confined by loads approximating floor loads and saturated. Slabs-on grade supported on re-compacted on-site soils have a low potential for heaving if the water content of the soil increases. On-site sub soils near shallow foundation level exhibited low to medium resistance to penetration using the standard penetration (ASTMD 1586) and ring-lined barrel (ASTM D 3550).

D. Surface water hydrology

The 1240 acre project site is located along the western margin of the Wilcox Basin immediately east of the eastern flanks of the Winchester Mountains. The project property is currently undeveloped. Surface elevations range from about 4,190 feet above mean sea level (msl) in the lower southeast corner of the property to a high of about 4,300 feet above msl along the higher western border of Section 30. Drainage across the property is primarily by sheet flow with essentially no significant defined drainages. The overall direction of surface drainage is easterly, with a northeasterly component in the western half of the property and a more southeasterly component in the eastern half of the property.

The site contains the following FEMA zone designations;

Zone X (areas of minimal Flooding) covering most of the site which represents the bulk of the developable areas,

Zone AO (areas of 100- year shallow flooding where depths are between 1 and 3 feet). Most of these areas are designed to be left as natural open spaces.

A detailed drainage report or hydrology and hydraulic report will be produced to support the site development plans that will safely and efficiently convey storm water through the subject property. This report will be prepared in accordance with the requirements of the Cochise County Floodplain Regulations and will be submitted with the first tentative plat for a residential parcel.

E. Vegetation

The existing vegetation is the result of the site being grazed for many years. Vegetation at the site consists of sporadic mesquite trees and creosote on most of the site, with the exception of the lower eastern half of the property where the areas associated with the drainage contains sparse desert grasses. The density of mesquite trees increases in the higher western half of the site. Minimal desert cacti occur on the property.

F. Wildlife

Given the nature of onsite vegetation and the history of uses of the site, the majority of the property provides only medium value wildlife habitat. This property does not contain any known threatened or endangered species. Rabbits, Javelina, Deer and a variety of birds and reptiles, all indigenous to the area, are wild animal species observed or known to occur on the property.

G. Existing infrastructure

1. Water

Existing Water Facilities

The Madison project does not have any existing water facilities or directly adjacent to its boundaries.

Existing Wells

An abandoned well exists on the property. This well was referred to as WT4199 and it is shown on Figure 1 of the preliminary evaluation of groundwater conditions report contained in Appendix B.

The Hydrogeological Evaluation and Water Supply Development Study for the Madison Project calculates the water needs for the project to be two supply wells with potentially 720,000 gallons of on-site above ground storage. One of the required wells was dug in October 2004.

There are approximately 70 registered private wells located within about one mile of the project property. The approximate locations of these wells are shown on Figure 2 of the hydrological report presented by Chuck Dickens' hydrogeology evaluations. Information for each of these wells is summarized and the report included in "Appendix B", Approximately ten wells with reported pump capacities of 200 gpm or greater were historically operated / located within about one mile of the project property. The approximate locations of those wells located within ½ mile of the property and with legal descriptions to the nearest 10 acres are shown on Figure 2 of the preliminary evaluation of Groundwater conditions report also contained in Appendix B.

Groundwater Rights

There are no known irrigation, non-irrigation or surface water rights associated with this property.

2. Wastewater

The closest City of Wilcox sewer main is located approximately 3 miles east of the proposed project.

Residential units greater than or equal to one acre will utilize onsite septic systems. An alternative method of waste water treatment for the high density, mobile home park, and commercial sections of the development, which may include a septic treatment system or a form of centralized wastewater treatment system, will be proposed at time of Phase 1 improvements and tentative platting.

3. Roads

Existing access to the Madison property is via Marguerite Road through a 60-foot easement to the north and direct access from Airport Road to the south. The primary access will be concentrated on Airport Road.

4. Other

Electricity

The property lies within the services area of Sulfur Springs Valley Electric Cooperative, Inc., There are power lines in the immediate area sufficient to serve the property.

Communications - Communications lines will be provided by Qwest.

II. MASTER DEVELOPMENT PLAN.

A. General provisions

Master planned communities in the southwest offer numerous benefits not only to their residents, but to the surrounding areas that broaden the urban and rural community. Getting back to the basics of strolling around the neighborhood after mealtime, horseback riding to all the gorgeous natural open spaces, walking to the local park or the corner store, enjoying evening barbecues and block parties are common occurrences. Quality social interactions and knowing neighbors not only enhance the quality of living and the psychological well-being of the residents, but also create a safer neighborhood for all. Various important amenities are commonplace within master planned communities such as a variety of housing opportunities, parks, trails, bikeways and roads, shopping close to home, community services, and neighbors that genuinely feel connected. Because these communities offer their own infrastructure by planning for roads, water, police and fire protection, existing resources aren't over stressed. Both the infrastructure and amenities tend to greatly exceed what one may expect from large developments that are not part of a community with a Master Plan.

Some additional benefits include:

- Regulated use of existing transportation systems
- Regulated uses of land
- Regulated use of groundwater resources
- Trail provisions, access, and connectivity
- Quality Open space provisions
- Environmental sensitivity and protection
- Adequate provisions of infrastructure and services due to contributions above existing tax bases
- Efficient use and regulated development of infrastructure (i.e., road and utilities)
- Social, political and economic analysis that results in a mix of land uses promoting the highest and best economic benefit, such as widening of the tax base and employment opportunities.

Master Development Plan policies and regulations regarding screening and buffering, design elements, recreation areas, scenic features, pedestrian circulation, equestrian circulation, bicycle circulation, and provisions for amenities/phasing can all be found in section IV-E of this report.

B. Proposed land use

The Madison Master Development Plan will contain between 800-1200 dwelling units. With an expected population at build out of 1920-2880 permanent and temporary residents (calculated at 2.4 per household), the development of the property including critical infrastructure will be in carefully designed and planned phases. Based on our research and promoted by strategic marketing, it is the hope that the community will be populated at a much faster rate than the most optimistic current housing absorption rates would predict.

C. Screening and buffering

This proposed community consists of several different residential areas with varying degrees of density. The majority of the property surrounding the subject property is currently non-residential land mostly used for grazing and agriculture. It is intended that any proposed development documents shall provide buffering between major land uses, which include low density residential and high density residential, residential and commercial etc. Along the boundary of the property, landscape buffering consisting of native and indigenous plants will be provided to screen the community from adjacent existing properties.

Therefore, it is intended that all surrounding properties of the Madison Master Planned development will be buffered and insulated by natural and functional landscaped buffer areas or methods. In addition, detailed landscaped plans for the areas between different densities and land uses can be provided at the time of the submittal of independent plats during the phasing of the development.

D. Design elements, recreation area, and scenic features

It is the developer's intent to coordinate active recreation planning with Cochise County and City of Wilcox Parks and Receptions Departments to identify opportunities for collaboration and the development and implementation of a park and recreation plan to serve the passive and active recreation needs of the future family, youth and active adult residents of the project. Recreation amenities will be conceptually addressed in the project phasing plans submitted prior to final determination of the MDP application.

1. Open Space Allocation and Accounting

Madison Master Development Plan will establish the guidelines for all open space areas to be provided by each subsequent subdivision plats and development plans. Development areas and open space shall be defined at the time of development of individual subdivisions. Cochise County open space requirement is 50% per current County regulations. The Madison MDP proposes a 45% open space

minimum with the assumption that approximately 20 acres will be provided for a public school and approximately 5 acres will be dedicated for a future County fire station.

The Madison Community will provide residents with areas of functional open space that will be available to residents and non-residents of the community. These areas will include community parks, equestrian trails or paths, and intermingling walkways. The allocation of space for these recreation facilities shall be zoned and accounted for in each phase and/or subdivision, and per this MDP Report. Each area will be designed and presented for approval at the time of development through the development process to Cochise County Planning Department.

The proposed open space areas may be coordinated and overseen by the neighborhood associations in Madison and could be delegated to appropriate and professionally run private organizations to manage the day-to-day operations.

2. Open Space Definition

The meaning of open space as presented in this Madison Master Development Plan refers to the following:

- Natural open space: undisturbed natural areas
- Public and private common areas
- Community and neighborhood parks
- Well areas
- Trails and pathways
- Retention/detention basins
- Areas restricted to disturbance and preservation of native landscape

3. Natural Open Space and Passive and Active Recreation Areas

Madison Master Development Plan proposes an open space system that focuses on an interconnected network of green space pathways, easily accessible to all communities in each lot within the community of the development independent of its density. The green area may consist of landscaping, pedestrian, equestrian and/or bicycle paths, sitting areas, and community gathering areas that will respect the natural integrity of the existing landscape and designated corridors. These paths will serve as open space links throughout the community, providing non-vehicular connections between the open spaces, residential, recreational and commercial components of the community. Natural areas will be connected by natural corridors

through the site to protect the movement of wildlife and to take advantage, in particular, of the natural hydrology of the site.

The pathways will also connect to the various communities, neighborhood and other proposed parks within each of the community neighborhoods. Passive and active recreational opportunities including sitting areas, walking paths exploration and recreation trails as well as equestrian paths and service areas.

Madison does not contain steep terrain or areas with slopes exceeding 15 percent. Areas of floodplain located along the east part of the development, their sandy soils and associated vegetation will be utilized as natural open space. This will allow for the continued natural conveyance and recharge of water in the site preserving this natural feature which is so important in desert regions.

E. Pedestrian, Equestrian and Bicycle Circulation

Madison presents a community concept that values the movement of people by walking or by any other of non-motorized method of transportation. The provision of pedestrian, equestrian and bicycle paths interconnecting the community is a desired component of the design of Madison. These trails and paths are designated in the Master Development Plan and will be presented with more detail with the platted phases for the overall development. This is to ensure that the integrity of all proposed non-motorized circulation is available for use from day one of the development process throughout the community.

Potential trail paths offer the opportunity to connect open space areas to a future public trail on lands west of the community that connect with the Winchester Mountains. Trails will also be used as equestrian paths that would allow for the opportunity to connect to public lands abutting the property.

Other trail concepts promote the opportunity to move nature enthusiasts who prefer to walk in a native landscape setting throughout the Madison community. These trails will also connect the residential, commercial, parks and other open space amenities in the community.

All trails within the community are planned such that they will be easily accessible directly from all the residential lots and neighborhoods of the project. Also, potential trail interface nodes are envisioned in areas where different trails converge. These areas will be treated with landscape design elements that reinforce the importance of the Madison community commitment to its lifestyle. The pedestrian, equestrian and bicycle circulation will follow guidelines set forth in Section IV – E of this MDP Report. See Sheet 7 – Pedestrian Circulation Exhibit of the Madison 1240 MDP Plan set.

F. Provision of amenities/phasing

The Madison Master Development Plan documents will establish the guidelines and space allocation of the open space and open space amenities, although the provision of complementary amenities, including but not limited in scope to sidewalks, open space, parks, recreational facilities, lighting and landscaping, will occur in phases as the community is developed, as required by market demand and County requisite. The provision of amenities within each individual neighborhood will be allocated and phased within the platting process of each neighborhood.

Public streets will be constructed in accordance with Cochise County Standards Road Design and Construction Standards for Public Improvements and all right-of-ways will be dedicated to the public. Upon acceptance of such improvements, Cochise County, will be responsible for the maintenance of all rights of way. Private streets will be constructed in accordance with design guidelines established by Cochise County this MDP document, and individual phases and/or subdivision plats, and will be maintained by the Madison Homeowner Associations (HOAs), sub-associations, or designees of such associations.

Parks and other recreational areas within the MDP shall be maintained by the Madison HOAs, sub-associations, or designers of such associations unless other agreements are reached with Cochise County or the City of Wilcox.

G. Design guidelines

1. Purpose

In order to maintain the integrity of the community concept, the Madison Planned Development District includes a set of design guidelines to be implemented throughout the entire project area. These design guidelines express and guide all development activities in order to preserve the desired community character. Each development within the Madison Community should follow these design guidelines when dealing with issues of circulation, open space, landscapes, architecture and signage. The community will be planned to respond to market trends and needs, aesthetics, form and function as well as to promote community goals. Each neighborhood, planning area and land use should follow the concept idea of the Madison community ruled by the design guidelines.

The Master Development Plan will record a set of CC&Rs for which each individual development shall be governed. Prior to the submittal of subdivision plats to

Cochise County for review, a finalized version of the CC&Rs should be completed and submitted.

The desired effect of the design guidelines will be:

- Provide Cochise County with the necessary assurance that the MDP area will develop in accordance with the quality and character proposed herein;
- Provide guidance to the County staff, the Planning and Zoning Commission and the Board of Supervisors in the review of future development projects in the MDP area;
- Include cost considerations and marketability effects to design guideline application;
- Provide homebuilders with a feel for how their homes must blend with the character envisioned for the community; and
- Provide homeowner and future residents with assurances that the entire project will be built with the same vision that was present during the construction of their homes and surrounding neighborhood.

Commercial Areas and Parking Zones

As required, commercial areas and parking zones will be screened by the provision of landscape buffer yards that may contain hardscapes like walls and berms. The commercial structures, as set forth in these MDP policies and County code standards, will have varied height limits, broken façade or façade treatments, roof line variations and a diverse palette of color, trims and decorations in order to avoid continuous flats wall massive buildings. All commercial buildings will have a building envelope established by the required setbacks, landscape and parking allocations, set forth in County code standards.

2. Circulation System

Designed to intertwine residential, functional and commercial areas, the Madison circulation system was envisioned by reading the natural enclave of the community. The traffic layout follows urban planning and urban design principles to maximize safety, functionality, efficiency and aesthetics.

The major internal collectors within the project area will contain wide landscaped areas that also allows for pedestrian and non-motorized pathways. All plant materials to be used will be selected from low water use desert plants naturally and indigenous occurring in the region.

3. Landscape Design Guidelines

The natural enclave of Madison defines the natural character of the community. The landscape design will emphasize the importance of protecting this character. The use of native plants to the maximum extent that is practical will be encouraged.

During the site plan review process, a landscape plan shall be required for each planning area to assure its compliance with Cochise County design guidelines. Each individual landscape plan must take into account the following guidelines:

- The use of native plants. The use of salvaged plants from the site is highly encouraged.
- All areas disturbed by development will be re-vegetated with plants and densities similar to those occurring prior to development.
- The terrain in all landscaped areas should be graded or shaped in a way that takes advantage of water collection and retention.
- Permanent or temporary irrigation systems should be efficient and/or use reclaimed water.
- Parking areas and paved hard surfaces should incorporate planters or means to provide shade.
- Non-native vegetation or water intensive plants should be allowed only in small oasis areas where the cooling benefits to the residents of the community is greater.
- Water features should be encouraged. All water features should be water efficient and located areas where it's cooling and relaxation effect will benefit the residents of the community.

The maintenance and supervision of all landscape and open space areas should be assigned to an entity created by the CC&Rs. This entity should have the authority to preserve, enhance, or modify the landscape design guidelines.

Plant Materials

The incorporation of a plant material palette (see recommended plant lists) into the Madison Development Plan should be used as a guideline for plantings. There is a recommended plant list and a desert plant list that in conjunction is to be used in commercial areas, oasis grounds, and enclosed patios within private residences. All other landscaped areas throughout the community requiring landscape treatment should use the desert plant list exclusively.

The “recommended plant list”, which includes native and non-native plants, is selected for performance under the climatic conditions existing within the MDP area. This list provides sample opportunities for landscaping parcels within those limits. Additional information regarding many of the plant species listed below can be found by contacting the University of Arizona Extension Service’s Water Wise Program.

The “desert plant list” includes a list of plants found naturally in the Sonoran Desert and is intended to be used on revegetated areas and in areas where the predevelopment character of the site is desired.

The recommended plant list shall incorporate the Cochise County drought tolerant plant list.

4. Architectural Design Guidelines

The intention of the following architectural design guidelines is to define a theme under which the residential, and commercial, structures should be designed. The Madison theme could be defined as the new old West. Arizona, Cochise County, and in particular, the Wilcox area have a very distinct sense of place which has been imprinted in the land and its people by its rich and diverse history. The people, culture and traditions of Native Americans, Spaniards, Mexicans and the new American frontier pioneers along with the recent North to Sunbelt migration have helped shape what we call the new Old West.

The architectural style and vision within Madison should be able to express this richness of culture and traditions by using forms, materials and colors that reflects all the influences of the new Old West. In addition to protecting the character of the place, architectural guidelines will provide uniformity, continuity and building quality standards within the Madison residential and commercial facilities.

Residential Design Guidelines

Horizontal lines defined by flat or low pitch roofs, porches, columnades and large window will be preferred. Rock, stone, adobe, brick, stucco, rough metal and unfinished wood will be the materials of choice.

- Large windows, patios, porches, and transitional elements that reinforce the indoor-outdoor relationship will be encouraged.
- All mechanical equipment shall be hidden, screened or camouflaged from view of major streets, pedestrian areas and neighboring residence.

- Satellite “Dish” antennas shall be limited to 18 inches in diameter. Larger antennae will be permitted only if they can be hidden from the street of adjacent parcels.
- All trash containers shall be enclosed and screened from street view.
- Structures should follow a combination of forms and styles with a common theme, but avoiding repetition or cookie-cutting effect by not allowing the same or very similar housing models to be located adjacent to each other.
- When same or similar model houses are to be located adjacent to each other, the orientation of the structure, façade treatment or building setback will be modified to avoid repetition. Same or similar structures could be also modified with variations of projecting balconies, recessed porches, entries, and enclosure to avoid repetition.
- All community features and buildings should reflect the new Old West theme by the use materials, details, decoration and colors that look old and weathered out,
- Wilcox area and site-specific climatic conditions should be an important design consideration. Building location and orientation should take into consideration sun inclination and prevalent winds.
- The use of large porches, roof overhangs and balconies should be used to provide shade and take advantage of the cooling effect.
- Insulating materials, windows and skylights should be of high R-values. Efficient air conditioners, furnaces and house appliances should be required. Low water usage fixtures should be encouraged.

Commercial Design Guidelines

Commercial as well as residential architecture should appear as an integrated part of the overall site design concept and theme. Design for individual project will be submitted at the time of the development plan review process to Cochise County.

The architectural styles and elements to be used in the commercial areas will follow the new Old West Style. Some of the elements could be gathered by studying historic buildings located in City of Wilcox Historic District. New building design features should be incorporated to assure economic feasibility, aesthetics, function ability and flexibility of uses. The qualities and design elements for commercial buildings that are most actively encouraged are:

- Incorporation of thematic (new Old West) elements.
- Character and diversity in treatment of surface and texture.

- Enclave and orientation to maximize view-scapes, light, shapes, shadows, contrast and colors.
- Broken mass by using voids and protuberances
- Façade treatments to break building mass and reflect interior uses
- Variation in wall articulation and decoration
- Wall surface that mimic the textures, patterns of the Old West
- Graphics and signs that use the colors, letter styles, clarity of the Old West

Building Materials

- Modular or Pre-manufactured buildings may be allowed in certain areas
- Wood and Metal
- Stone, rock and adobe variations
- Masonry (concrete, glass, or brick)
- Stucco
- Textured or exposed aggregate
- Pre-cast or tilt-up concrete

Building Facade Treatments

Encourage:

- Porches and openings
- Recessed or projected entries
- Large windows
- Arcades and columnades
- Passages and overhangs
- Facades with diversified front setbacks

Discourage:

- Unarticulated building facades
- Utility lines and boxes
- Flat single colored walls

Colors

- Earth tones and sepias
- Glass, dark with standard tints (not spandrel)
- Aged graphics, signage, address, directions
- Company names/logos

Layout

- The development of building sites should be coordinated and organized. Shared access, parking and service areas should be encouraged. Areas between buildings should be converted into public or semipublic spaces like plazas, paseos with benches, rest areas, etc
- Minimize the visual impact of exterior components like electrical, plumbing, processing, heating, cooling, and ventilating systems (including but not limited to piping, tanks, stacks, collectors, heating, cooling, and ventilating equipment fans, blowers, duct-work, vents, louvers, meters, compressors, motors, incinerators, ovens, etc)
- Service areas and storage areas outside or within the buildings should be hidden, buffered or screened.
- All building should be sited in a manner that related to the adjacent building, landscape, parking and transitional areas,
- Service utilities will be located underground within the MDP areas, except for major power sources and connections with possible future substation facilities.

Design

- Easy access to public areas
- Handicap accessible pedestrian spaces and amenities
- Parking in the back of buildings

Signs

- Cochise County Code, Article 19
- Graphics and signs will use the colors, letter styles and clarity of the Old West (Madison's theme)

Lighting

- Lighting shall comply with the Cochise County Light Pollution Code

H. Adequacy and provision of water supply and community impacts

Since the property is not within the CC&N area of an existing water company, water will be provided through the creation of a private water company or domestic water district. However, the property will be required to comply with all Section 4 policies. The provision of potable water to the community is to be specifically addressed prior to issuance of any building permit or tentative plat approval of the Madison development.

Efforts will also be made to ensure that individual wells located to serve the project will not result in unreasonable declines in water levels of existing wells owned by others. Procedures used by ADWR to evaluate individual well impacts within Active Management Areas were employed to evaluate existing and proposed well sites.

Water System Infrastructure

The primary components of the water system will include project supply wells, on-site storage (above ground tanks), and below – grade conveyance piping. The project supply wells will have the estimated combined capacity to provide approximately 450,000 gallons per day (gpd) on a long-term basis and upwards of 30,000 gallons per hour (gph) for short durations during peak demand periods. The project supply wells will be capable of meeting both the long-term average and short-term peak day demands of the project. Fire flow requirements and peak hour project demand will be satisfied utilizing on-site water storage. All demands and requirements for storage and capacity shall be determined at the time of planning and platting of the initial phase of the Madison project.

Community / Regional Impacts

Some of the positive impacts of the development of a potable water provision system at the Madison community include:

- Development of a system that is compatible with and provides redundancy to the water supply system used by the City of Wilcox.
- Provides for the establishment of a water system that has the potential to expand to the west and serve existing and future residences.
- Provides an emergency water storage supply

I. Traffic and circulation issues and community impacts

Transportation efforts as they relate to the community are to be specifically addressed at the time of planning and platting of each individual phase. It is the developer's intent to address any and all potential circulation issues and community impacts that could effect the existing community(ies).

Proposed Internal Circulation

Internal circulation for the Madison MDP is to be provided by a series of collector roads and local streets that will be constructed on a phased basis in coordination with the phased development of the project. Details such as right-of-way widths and number of lanes both at key intersections and otherwise are to be provided in phased construction documents. The Traffic Impact Analysis (TIA) been included as a part of Appendix "E".

J. Other infrastructure improvements and services and community impacts

1. Wastewater

Wastewater Service Provider

Should the developer determine to pursue wastewater treatment via a localized wastewater treatment plant (WWTP), a specified entity will provide the treatment of wastewater through the creation of a private utility company or wastewater improvement district. The wastewater treatment plan constructed on-site will have adequate capacity to serve up to 1,200 home sites.

The developer's representative is actively pursuing and is in design mode for an alternate wastewater treatment system that shall utilize smaller wastewater treatment nodes. Each individual node will act in a similar fashion in treating the sewer effluent which will also incorporate gravity flow to service each residence or building that is conveyed to the node.

Both wastewater treatment system may require an industrial use permit from Cochise County, prior to construction, in addition to the Southeastern Arizona Governments Organization (SEAGO) 208 Water Quantity plan Amendment Process, ADEQ approval, and the Arizona Pollution Discharge Elimination System Permit (ADPDES).

Wastewater Flow Conveyance

The overall onsite wastewater gravity flows from northwest to southeast within the project area and concentrates in the northeast portion of the project. The gravity sewer mains will terminate at a proposed wastewater reclamation facility that will be located in the southeast corner of the project, or at a wastewater treatment node which shall be strategically placed at the low end of the individual phase or subdivision. The wastewater reclamation facility or treatment node will treat the incoming wastewater to a minimum class B reclaimed water standards. A significant portion of the reclaimed water will be used onsite for recharge and various needs, thereby reducing the possibility of negative impacts to existing and future water users in the region. A higher reclaimed water discharge class shall be sought after once localized testing is conducted and more precise design can be applied.

On-site Wastewater Treatment Node Facility

Currently, there are no existing wastewater facilities within or near the project site. It is understood that the closest possible facility is several miles away and would not make feasible sense to pursue at this time. There are several options that the development would implement and each would potentially play a role in the development Madison 1240 project. However, the utilization of each option can be affected by not only the market conditions, but also financing. Each option is explained below in further detail:

- Option 1: Centralized Wastewater Treatment Facility (CWTF). The benefit of the CWTF would include not only the ability to service the entire site, but also the possibility for the City of Willcox to eventually take over maintenance and oversight of such a facility. This would allow Willcox to expand its area and provides waste water service for future developments in the area. A system of this caliber cost many millions of dollars and considering the uncertainty of the economic circumstances that not only the local Willcox market is experiencing, but the real estate market as a whole, it does not make financial sense for the developer to accommodate such a massive expenditure without a joint venture agreement with the City of Willcox or another utility company. No agreements have been pursued by any parties at this time.
- Option 2: For all areas with residential density greater than 1 unit per acre, and all commercial areas, the developer would prefer to pursue on-site

wastewater treatment node facilities, which is to utilize septic treatment systems that will be strategically located at the lowest point of the corresponding site, accepting flows via gravity wherever possible. It will be constructed using materials and landscape treatments that will make it visually appealing. It will also employ setbacks required by the Arizona Department of Environmental Quality that will permit it to perform its function without negative influence on the surrounding residential, commercial and other community elements. There will be no open storage of solid waste material. An onsite reclamation facility will be sized to provide treatment for the average day wastewater flows. Construction of the treatment facilities will be phased to match the anticipated population growth using sequential treatment facilities. The system will require an Aquifer Protection Permit as part of ADEQ's unified permit system. Two possible reclaimed water disposal options:

- Onsite usage for irrigation of landscaping and turf use, and
 - Groundwater recharge
- Option 3: For all residential lots that are 1 acre or larger, it is proposed that wastewater treatment be provided by individual septic systems.

Community / Regional Impacts

Some of the positive impacts of the development of an onsite wastewater treatment facility at the Madison community include:

- Reduction in the amount of potable water used for landscape irrigation purposes
- Reintroduction of water into the regional aquifer (recharge)

2. Police and Fire Protection

The Cochise County Sheriff currently provides police protection for the site. The closest Sheriff's office is located at 450 South Haskell Avenue in Willcox. As Madison develops and as the County as a whole grows, the number of service calls requested of the Sheriff's department will increase. As homes develop from zero to several hundred, it is understood that current sheriff staff can support the potential increase of service. As the community continues growing up to a possible total of 1200 homes, there may be a demand for some officers to serve the expanded community. It is anticipated by the developer that as demand increases that the local Sheriff's office will request the County to accommodate for such a demand and expand its personnel. The funding for this expansion of services will be provided via the property tax dollars generated by the residential development of Madison.

The closest Willcox Fire Department station is Station One located at 501 W. Maley Avenue, which is approximately 4 miles to the east of the site. Currently, the Madison is outside of the Willcox Fire Department boundary limits and would need to annex in order to receive fire protection. Eventually, as the community develops and expands, a separate fire district may need to be formed or an existing provider may be contracted. The developer has set aside a portion of the property for such an expansion.

Community/ Regional Impacts

- Some of the positive impacts of the Madison development will produce increase in property taxes collected by the County, thereby providing funding for the establishment of a sheriff substation.
- The project will be built to the standards of the County, thereby allowing for emergency vehicles to reach their destinations with ease and efficiency.

3. Medical Facilities

The closest hospital to the property is Northern Cochise County Hospital, located on Rex Allen Drive in Wilcox, Arizona. The hospital has a relationship with Tucson Medical Centre and has a helipad for the airlifting of patients to TMC for acute care. Most major healthcare plans include the hospital in its network of service providers. The Madison property can be located within the San Pedro Valley Hospital District (SPVHD), one of two hospital districts located within Cochise County. The District is a special taxation district that receives a percentage of the property tax leveled by Cochise County and the Madison property will need to be annexed.

Community/ Regional Impacts

Some of the positive impacts of the Madison development as it relates to medical facilities include the following:

- Property owners in the community will financially contribute to the SPVHD.

4. Education

The subject property lies within the district boundary of the Wilcox Unified School District, which provides for kindergarten through grade 12. Capacity data for each of the schools was not available at this time.

As this planned housing development will include significant retired occupants the tax base of the school district would increase and broaden without a corresponding increase in student enrollment. However it is anticipated that many families that would include children will potentially impact the existing school district. This will

necessitate a concise plan so that the districts needs are fully met. It is the developer's intent to coordinate any such plan with the Wilcox Unified School District and its representatives. As part of this plan, the developer is willing to dedicate approximately 20 acres to the school district as the demand for a school in the area requires it. It is currently proposed on the Site Plan that the dedicated school area will be located at the northeast corner and will be incorporated into the development at a date and time as decided upon by the School District and County. The developer's representative has been in contact with Richard Rundhaug, the Willcox School Superintendent. Preliminary discussions have begun concerning the potential of financial impacts to the school district and how the developer can work with the school district to help mitigate such impacts.

5. Other

The various other public utilities and their respective provider are listed below:

Electric – Sulfur Springs Valleys Electric Cooperative, Inc.,

Gas – AmeriGas

Telephone – Qwest Communications.

The developer has worked and will continue to work with the applicable companies in order to provide the required public services to the future residents of the community during the subdivision platting stage.

K. Water conservation

The water conservation effort for Madison will set forth the recommended programs for education of homebuyers, direct recharge of effluent to strategically maximize benefit to the aquifer, use of non-potable water in common areas, and strategies for minimizing the use of potable water. Such strategies may include, but are not limited to: low flow faucets, reduced flow toilets, water timers and automatic shutoff mechanisms. In consideration of the desert climate experienced throughout the Willcox area, it is the goal to recognize the importance of water conservation and implement all prospective water preservation measures recommended above. All water conservation efforts shall comply with Section 4.E.3 of this report.

As part of the water conservation effort, the developer intends to maintain the existing washes as open space. The purpose of this is to sustain the current aquifer recharge that will replenish the water distribution and storage system for the entire community. The developer also intends to incorporate the effluent from the wastewater treatment facilities within the higher density and commercial area as potential recharge and/or reclaimed water for landscaping purposes.

L. Soils

There are no geological or geotechnical conditions that would prevent the development of the property. There is a possibility of near surface loose or moderately expansive soils that may exist in portions of the site. Mitigation procedures for these conditions will be identified in geotechnical reports produced at the time of the platting phase. At this time, mitigation measures, if required, are expected to be typical for the area, and will likely consist of earthwork or foundation recommendations that account for the existing soil conditions. No unusual or atypical geologic or geotechnical conditions have been observed or identified for the subject property.

M. Timing of development and phasing

At this time it is proposed that there will be four phases for the build-out of the Madison community. The phasing of the community is based on the absorption of development parcels and will respond to housing market demand, retail market demand, job growth for employment space, regional transportation facilities, and sound infrastructure development strategies.

Estimated Implementation schedules based on residential absorptions are projected as follows:

- Phase 1 – 2012-2013
- Phase 2 – 2013-2015
- Phase 3 – 2014-2018
- Phase 4 – 2016-2025

It is understood by the developer that County Regulations require that the development complete construction within 5 years of MDP approval. It is also understood that the abovementioned estimated phasing plan or implementation schedule may change while still complying with County standards and processes.

Commercial and employment land use phasing will respond to demand created by housing growth and/or regional transportation improvements which generate an increase in regional transportations trips within the vicinity to the non-residential development parcels. A projection for the completion of the absorption of commercial and employment land use not been provided due to the many variables, which influence the outcome.

It is estimated that the total Madison Planned Development residential build-out will require approximately ten or more years. This estimate, of course, depends on the

health of the economy and housing market demand. A formal waiver of the County Standards shall be provided for approval of this MDP.

The Master Development Plan may propose a single master block plat in conjunction with the formation and recordation of a comprehensive development agreement. Inclusive in the block plat and /or development agreement will be detailed "assurance" directives, with exhibits established by "district" or "region" to coordinate the overall implementation of crucial infrastructure inherent to this community, including recreation areas. The assurance package will allow for sufficient flexibility within the framework or implementation of the infrastructure to adjust for market condition changes, as determined by the Master developer or subsequent assignable entries. The Master developer or other said parties are responsible for coordinating and completing the master block plat and /or development agreement and identified infrastructure improvements through community build-out. A single rezoning or planned development reflects a commitment toward the construction and installation of necessary infrastructure without placing undue burden on the government agencies during the life cycle of the development. A Madison Development Agreement and specific plat notes on the block plat will provide assurances for the construction of critical infrastructure prior to or concurrent with development.

In accordance with Cochise County regulation, it is anticipated that the development of the project will be complete within five years of approval by the Board of Supervisors, unless otherwise approved by the same Board.

III. CONFORMANCE WITH COMPREHENSIVE AND GENERAL PLANS AND COMMUNITY IMPACTS

A. Project conformance with Cochise County Comprehensive Plan

Currently the Madison 1240 site falls within Growth Area Category D (Rural Residential) of the Cochise County Comprehensive Plan. As mentioned in the Comprehensive Plan, referring to Category D Rural Areas, "These sparsely populated rural lands also have the potential for future master-planned communities that will provide the infrastructure to support any proposed increases in residential density or non-residential activities." The project will provide adequate infrastructure to support any and all residential and non-residential activities that it incurs.

Since the initial Madison conception, during its design, and up until today Madison Diversified has been in direct contact with and requested the involvement of key Cochise County stakeholders, including County officials, business leaders, and active citizens. Madison is therefore shaped by the influences of Cochise's current goals and future aspirations all in conjunction with the developer's vision and the opportunities and constraints of the site.

B. Impacts, benefits and advantages for Cochise County

The community planned for the subject property will meet the need for new housing within Cochise County as the County's population continues to grow. The growth within the Tucson metropolitan area and Pima County shall continue to influence housing and economic development of Cochise County.

To summarize, the benefits to Cochise County include six broad provisions:

1. The subject property will provide housing and employment opportunities for the current and future residents of Cochise County.
2. The development will increase the property and sales tax base, providing an increased revenue stream, without creating large infrastructure costs for Cochise County.
3. The subject property will provide a master planned development with a variety of residential and commercial uses.

This will allow Cochise County to continue to grow in a manner compatible with the Cochise County Comprehensive Plan.

4. The subject property is located near a major transportation corridor. This will set an example for a partnership between ADOT, Cochise County, City of Wilcox, and future developers for improvements and expansion of the existing transportation infrastructure.
5. The project will be built in phases with full build out anticipated to occur in approximately ten to fifteen years. This will allow the project to grow in a manner consistent with the Cochise County Comprehensive Plan and in harmony with infrastructure improvements.
6. The project will expand opportunities for job creation and increased economic vitality to the northern Cochise County and Wilcox area.

C. Economic benefit analysis

It is our belief that the Madison development will have a positive effect on homebuilding for the local economy, including income, jobs and revenue for local governments, and will capture the effects of the construction activity itself, the expenditure of income earned from the construction activity, and the ongoing impact resulting from the new homes being occupied and the new residents paying taxes and otherwise participating in the local economy.

The economic benefit will likely increase over the course of the development project based on such factors as the rate of inflation, increase in the cost and value of homes, wage increase, changes in the prices of permit fees, etc.

Most of the impact will likely benefit Wilcox and those areas closest to the Madison area, providing that those areas can supply the goods, services, and labor necessary for the construction of the homes, as well as those goods and services demanded by new residents once they occupy the new homes. While the supply of these goods and services in the local area may not currently exist at the appropriate levels, it is reasonable to expect that, over time, an unmet demand for them will draw such commercial establishments to the area as are necessary to meet the levels of demand.

IV.DEVELOPMENT REQUIREMENTS OF THE PLANNED DEVELOPMENT DISTRICT

A. Purpose and intent

In order to provide residents with a progressively planned and high quality of living environment consisting of a variety of land uses, this planned market rate affordable housing community is targeting housing prices from the low \$100,000s to the mid \$100,000s. Currently, there is a growing demand and the supply of this segment of housing is low; thus Madison will help to fill this gap. The primary mechanism in the implementation of property land uses will be development regulations established herein. In addition, in anticipation of future needs and compatibility between land uses, an appropriate amount of flexibility has been incorporated into the regulations. Thus, for the purpose of this PD, the following land use districts are hereby established (and further detailed in Section IV, C-E of this document):

Residential Districts:

- Low density Residential District (LDR)
- High Density Residential District (HDR)
- Mobile Home Park (MHP)

Mixed Use District:

- Mixed Use District (MUD)
 - High Density Residential District (HDR)
 - Commercial
 - Industrial

B. General provisions

1. All construction and development within the MDP area shall comply with applicable provisions of the Cochise County Building Code and the various related mechanical, electrical, plumbing codes, fire code, grading and excavation code, and the subdivision codes as adopted by Cochise County and the State of Arizona, or as approved by the County Engineer.
2. This MDP may be amended by the procedures outlined in Article 4 of the Zoning Regulations.
3. Any persons, firm, or corporation, whether a principal, agent, employee, or otherwise, violating any provisions of these regulations shall be made to comply with the Cochise County Zoning Code pertaining to zoning misdemeanors.

4. Exceptions to height limitations contained in the development apply only to antennas, chimneys, evaporative coolers, or other architectural appurtenances required for the screening of rooftop equipment.
5. Non-conforming uses of land and non-conforming structures shall comply with Article 20, Section 2003 of the Cochise County Zoning Code.
6. At the time of site plan review, all commercial developments shall submit a plan detailing fencing, walls, landscaping, building placement, and other details, which must be in conformance with the PD design guidelines, Section 1503.09, for commercial structures.
7. Land Use Plan Provisions – Land use designations have been assigned to each parcel identified in the MDP, Land use provisions for the parcels designated for development include planning area letter, land use designation, proposed underlying zoning and gross acres.
8. Landscaping for common areas, open spaces and parks will be provided and maintained by the HOAs or designees as applicable throughout the MDP, subject to the Planned Development Landscape standards set forth in Section 1503.10 of the Zoning Regulations.

To ensure the orderly growth of the community, it is understood that minor modifications in the boundaries and acreage of parcels or adjustments because of final road alignments utilities or grading/hydrology hazards specified by the County will occur during technical refinements in the tentative map process and shall not require an amendment to MDP Maximum dwelling units per cumulative parcel counts will not be thereby affected. The MDP residential dwelling unit maximum shall be 1,200 dwelling units.

A transfer of residential dwelling units from one residential parcel to another parcel may be permitted in the MDP area in accordance with the following provisions;

In no case shall transfers of dwelling units result in:

- a. Exceeding the overall plan capacity of 1,200 dwelling units;
- b. An increase in the density classification of the overall MDP.
- c. Exceeding the capacity of the circulation system or any other public infrastructure system as established for the PD area.
- d. Exceeding prescribed development parcel target density by more than 10 percent (but staying within the plan capacity).

A revised MDP Map and Planning Area Summary shall be submitted with the respective tentative plats for review by the Community Development Department.

Said map and table shall also indicate the remaining number of units, if any, that may be accommodated without exceeding the overall plan capacity of 1,200 units. Said map and table shall be updated accordingly.

1. Drill-sites-Drilling, mining, or exploration for any minerals, oil, gas, or other hydrocarbon substances shall be prohibited in the MDP area. Drilling/drill-sites for groundwater are allowed within the MDP area.
2. Agricultural, ranching, and grazing uses shall be permitted on the property until such time that a specific parcel is platted, the plate is recorded, and improvements are constructed on a portion of the development land that real estate and all parcels without improvements thereon shall be and remain as an agricultural use.
3. Land for public service facilities may be provided within the Mixed Use District.
4. All site development standards specifically applicable to a Category B Growth Area, now and in the future, shall be incorporated in all districts, unless superseded by a more stringent development standard in this MDP.
5. Screening: in a Category B Community Growth Area, whenever a non-residential use abuts a residential zoning district or is separated from such by an alley, the developed area of the non-residential site shall be screened with a six (6) foot high screen (see section 1805.02 of the Cochise County Zoning Code for definition). The Zoning inspector may defer the screening if the abutting residentially zoned property is not developed.
6. Livestock for private use may be kept in all zoning districts provided that the requirements of Article 18, Section 1815 of the Cochise County Zoning Code are met.

C. Residential development standards

DEVELOPMENT REQUIREMENTS				
ZONING DISTRICT	MIN. LOT AREA(S.F)	YARD REQUIREMENT (FRONT/SIDE/REAR)	MAX. BLDG HEIGHT (PRINCIPAL/ACCESSORY)	DET.ACC.BLDG. (FRONT/SIDE/REAR SETBACK)
Low Density Residential (LDR)	36,000	20'/20'/20'	30'/20'	20'/20'/20'
High Density Residential (HDR)	2,500 / 0*	10'/3'/5' 0'/0'/0'*	40'	
Mixed Use (MUD)	40% coverage			

*Provision for non-detached (attached) residential development.

There must be a minimum 18' between the back of the sidewalk and the front of the garage to allow a vehicle to park in the driveway without protruding into the sidewalk, unless otherwise agreed upon.

Mobile Home Park requirements shall follow Cochise County Regulations, Section 1812, for that specific zoning type.

Low Density Residential District (LDR)

Provided that they conform to the applicable site development standards set forth below and meet any other requirements such uses, the following uses shall be permitted in this district, and can be found in the Cochise County Zoning Regulations, such as off-site road and drainage improvements.

Permitted Uses

- All single household dwellings, excluding mobile and manufactured homes.
- Public or private park, public, private, or parochial school.
- Utility installations not otherwise exempted by section 2002 of the Cochise County Zoning Code, other than electric generation plants, regional sewage treatment plants, solid waste landfills, or incinerators
- Churches or places of religious worship
- Residential care homes

Site Development Standards

All uses permitted in this district shall conform to the following minimum site development standards:

- Minimum lot area: 36,000 square feet
- Maximum density: one dwelling unit per 36,000 square feet
- Maximum Height :
 - Principal structure : 30 feet above finished grade
 - Accessory structure : 20 feet above finished grade
 - Fence or walls: 6 feet above finished grade
- Setbacks, Principal, and Accessory Structures/Uses: the minimum setback shall be measured from the closest point on the property line or road to the structure/use. The minimum required setbacks for permitted uses are 20 feet (front, rear, total for both sides). The minimum required setbacks for Special Uses shall be double.
- Distance between structures: except as otherwise provided in these regulations, a minimum distance between principal structures shall be 15 feet or 10 feet for multiple-household structures. Nothing herein shall prevent permanent attachment of principal structures.
- Maximum lot coverage is 65%

Permitted Accessory Uses

Accessory uses are permitted in this district provided they are secondary to any established permitted principal use. For residential uses, the following additional accessory uses and buildings shall be permitted:

- Rooms in the principal dwelling for boarders, not exceeding two (2) such persons per dwelling unit (no permit is required)
- One accessory living quarter subject to the definition in Article 2 and the procedures in Section 1717 of the Cochise County Zoning Code.
- Family cemeteries on a minimum lot of one acre (informational permit is required)
- Home occupations

Special Uses

The following uses may be permitted as a Special Use subject to the procedures and review criteria set forth in Section 1716 of the Cochise County Zoning Regulations:

- Welfare and charitable services
- Childcare facilities and establishments
- Personal and professional services
- Health Clinics
- Residential care institutions
- Indoor and outdoor recreational facilities
- Cultural, historic, and nature exhibits
- Resorts

High Density Residential District (HDR)

This zone is established to achieve the following purposes:

- To provide high-density residential development in locations with adequate infrastructure;
- To allow only those additional uses which are complimentary to higher density residential uses; and
- To stabilize and protect residential development

The following uses shall be permitted in this zone, provided that they conform to the applicable site development standards set forth below and meet any other requirements for such uses found in the Cochise County Zoning Regulations, such as off-site road and drainage improvements.

Permitted Uses

- Any use permitted in the High Density Residential District as described herein.
- All single household dwellings, including mobile and manufactured homes and attached single family dwellings such as townhome, condos, apartment.
- Public or private park, public, private, or parochial school
- Group quarters.
- Utility installations not otherwise exempted by Section 2002 of the Cochise County Zoning Code, other than electric generation plants, regional sewage treatment plants, solid waste landfills, incinerators, wastewater pump stations, water storage tanks associated with pumping systems

- Churches or places of religious worship
- Personal and professional services
- Residential care homes
- Health clinics.

Site Development Standards

All uses permitted in this district shall conform to the following minimum site development standards:

- Minimum lot area: 2,500 square feet or 0 SF
- Maximum density: 12 units per acre
- Maximum height:
 - Principal structure: 30 feet above finished grade
 - Accessory structure: 20 feet above finished grade
 - Fence or walls: 8 feet above finished grade
- Setbacks, Principal, and Accessory Structures/Uses: the minimum setback shall be measured from the closest point on the property line or road to the structure/use. The minimum required setbacks for permitted uses are 10 feet for front and rear yards and 0 feet for side yards. The minimum required setbacks for accessory structure/uses are 0 feet (front, rear and total for both sides).
- Distance between structures: except as otherwise provided in these regulations, a minimum distance between principal structures shall be 6 feet or 10 feet for multiple-household structures. Nothing herein shall prevent permanent attachment of principal structures.
- Maximum lot coverage is 70% (Total acreage)

Special Uses

The following uses may be permitted as a Special Use subject to the procedures and review criteria set forth in Section 1716 of the Cochise County Zoning Regulations:

- Welfare and charitable services
- Hospitals
- Bed and breakfast lodgings
- Personal and professional services
- Indoor and outdoor recreational facilities
- Cultural, historic, and nature exhibits
- Resorts

D. Commercial and industrial development standards

Mixed Use District – Commercial (MUD)

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The mixed Use District is intended to serve the needs of the immediate residential community. This zone is established to achieve the following purpose:

- To provide areas for small shops, businesses, and services establishments in convenient locations to meet the needs of households in surrounding residential areas;
- Provide the essential neighborhood character of the district by preventing encroachment by more intensive commercial uses having market areas extending beyond nearby neighborhoods;
- Maintain compatibility between neighborhood – oriented commercial areas and adjacent residential areas; and
- Avoid any undue concentration of vehicular traffic on local districts.

Permitted Principal Uses

The following uses, which in this district shall be conducted wholly within a completely enclosed building, unless otherwise specified, and use operated as a store, shop, or business shall be a retail establishment and all products on the premises shall be sold at retail on the premises.

- Any use permitted in the High Density Residential District as described herein.
- All single household dwellings
- Group quarters
- Childcare facilities
- Childcare establishments
- Educational services
- All utility installations not otherwise exempted by Section 2002 of the Cochise County Zoning Code, other than electric generation plants, regional sewage treatment plants, solids waste landfills, incinerators, wastewater pump stations, water storage tanks associated with pumping systems.
- Churches or places of religious worship
- Civil, Social, fraternal, and business associations
- Personal and professional services
- Indoor and outdoor recreational facilities
- Retail sales of merchandise
- Restaurants, bars, taverns, and nightclubs
- Residential care homes
- Emergency vehicle stations not otherwise exempted by Section 2002 of the Cochise County Zoning Code

- Bed and breakfast lodgings
- Health clinics
- Municipal Uses
- Recreational vehicle parks
- Motel / Hotel guest lodging
- Customer care services such as: auto repair, electronic repair, consultancy services, etc.
- Welfare and charitable services
- Convenience stores
- Residential care institutions
- Retail Sales
- All Light Industrial Uses as provided in Article 13 of the zoning regulations

Site Development Standards

All uses permitted in this district shall conform to the following minimum site development standards in addition to the provisions of Article 18 of the Cochise County Zoning Code:

- Minimum lot area: none
- Maximum density: none
- Maximum height:
 - Principal structure : 50 feet above finished grade
 - Accessory structure (residential): 50 feet above finished grade
 - Fence or walls: 8 feet above finished grade, typical
- Outdoor storage areas: non-residential outdoor storage shall be fully screened.
- Setbacks, Principal, and Accessory Structures/Uses: the minimum setback shall be measured from the closest point on the property line or road to the structure/use. The minimum required setbacks for principal uses are 20 feet (front, rear and total for both sides). The minimum required setbacks for Special Uses shall double.
- Distance between structures: except as otherwise provided in these regulations, a minimum distance between principal structures shall be 15 feet or 10 feet for multiple-household structure. Nothing herein shall prevent permanent attachment of principal structures.
- Max lot coverage is 75%

Special Uses

Special uses are permitted in this district provided they are secondary to an established permitted principal use:

Special Uses

- Hospitals
- Restaurants
- Indoor and outdoor recreational facilities
- Resort

E. Implementation

1. Purpose and intent

The development of the Madison MDP will be implemented in conformance with the PD District Standards (Article 15) and as set forth in Article 18 of the zoning regulations. When any site development standard in article 18 conflicts with these regulations, the MDP standards shall override default county standards; where development standards are not mentioned in the MDP standards, the applicable County regulations shall apply, subject to reasonable interpretation by the Planning Director as needed. In this section are outlines of the procedures for administration of the provisions contained herein and the phasing plan for the development of the proposed planning area. Other information covered in this chapter concerns the general administration, subdivision, administration procedures, and the linkage between these elements. In addition to the MDP site plan review, the Madison Planned Development District shall be implemented through the subdivision process. Concurrent with site plan processing will be submittal of tentative plats where properties are to be separately financed, sold, leased, or otherwise conveyed. The subdivision process will allow for the creation of lots as tentative parcel or tentative plats which will allow for implementation of the project phasing.

2. Phasing program

The main purpose of the phasing program is to relate infrastructure requirements to site development and market demand.

The MDP allows for flexibility in project phasing because the actual sequence of development may be affected by numerous factors not now predictable, including site plan modifications due to final engineering or changes in the economic market, and housing market. Please see the phasing schedule found in Section II.M of this report.

3. General administration, permit processing, and amendments

The MDP shall be administered and enforced by Cochise County Planning Department, in accordance with the provisions of the Cochise County Zoning Code. Certain changes to explicit provisions in the MDP may be made subject to Section 1505 of the Cochise County Zoning Code. The following items are in addition to Section 1505:

- Adjustments of modifications in the phasing order – as long as infrastructure development is precedent or concurrent.
- Changes in configurations of individual development parcel to include modifications of boundaries, division of larger parcels, or combination of parcels, as long as there is no net loss in overall MDP open space and no net increase in the total number of units allowable within the MDP.
- Changes or modifications in lot sizes and /or lot configuration which encourages diversity of housing types, as long as within the allowable density and density transfers.
- Changes in lot coverage ratios which encourage diversity in housing type by up to 10%, as long as within the allowable density and density transfers.
- Changes in front, rear, or side yard residential setbacks of up to 10% which encourage diversity of housing type, as long as within the allowable density transfers.
- Creation of gated neighborhoods, private streets, or other modifications in common area assets to be voluntarily maintained by a group or resident homeowners, as long as the integrity of the interior circulation plan is maintained.
- Placement and/or construction of identity or character features such as community art, entry monuments, mailboxes, neighborhood signage, etc.
- Addition of a school site or modification of a park site, which enhances the opportunity to create a sense of neighborhood and community, better centralizes the school and / or park sites based on actual development densities, or serves to implement the desires of the School District or County as to the most appropriate location for the school and / or parks site, as long as the maximum number of units within the PD does not increase.
- Terminology, reference, glossary, designation, or nomenclature changes that do not impact the vision of the MDP.

- A transfer of commercial/mixed-use square footage from one mixed-use parcel to another of up to 10%.
- Changes in front, rear, and side yard commercial setbacks of up to 10% when modifications will increase the diversity of employment opportunities or enhance the integration of neighborhoods and mixed-use developments.
- Modifications in the design and construction of infrastructure based upon technological advances when a proposed modification is accepted by the County Highway and Floodplain Department, the County Health Department, the Arizona Department of Transportation, or the Arizona Department of Environmental Quality. Infrastructure capacity based upon planned target densities and intensities of use and phasing of infrastructure precedent or concurrent with development will remain unchanged.
- Modifications in set-asides, encroachments, easements, rights-of-way, open space, so long as the modifications fall within the general overall range and target for the community and are based upon County-accepted technical design and engineering and no net reduction in overall open space results.
- Any analogous interpretations of the list of permitted or conditional uses of the property set forth in the MDP, as determined by the County Planning Director.
- Other changes not identified above as deemed appropriate by the County Planning Director, as long as the changes do not impact the general health, safety, and welfare of the residents of Cochise County.
- The addition of new information to the MDP maps or text that does not change the effect of any regulations or guidelines.
- The determination that a use be allowed which is not specifically listed as permitted but which may be determined to be similar in nature to those uses explicitly listed as permitted.
- Except as explicitly modified herein, the MDP area shall be subject to the applicable policies of the Comprehensive Plan, related to Master Development Plans, Water Conservation and Transportation. The Water Conservation standards in Section 1820 of the Zoning Regulations shall also apply to all new construction.
- Prior to tentative plat approval for any phase of development, the Applicant shall provide a draft charter for a property maintenance district which will be responsible for HOAs within the Plan area. The draft CC&Rs shall include provisions which obligate the association to maintain all open space, trail system, common areas parks, landscaping in common areas and medians,

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entry features, and etc within the development. The CC&Rs shall also include deed restrictions enforcing the site development standards proposed within the MDP Area.

- A general note shall be included on all future plats indicating compliance with the MDP standards, policies, development standards, water conservation and architectural guidelines.
- All roads, sidewalks, curb and gutters where applicable, on-site and off-site improvements shall be constructed to County standards as set forth in the *Cochise County Standards Road Design & Construction Standards for Public Improvements*. The vehicular circulation system shall be designed and implemented in accordance with the standards for Planned Development District Access, Circulation and Street Improvements as provided in Section 1503.08.A of the Zoning Regulations and as set forth in an approved Traffic Impact Analysis (TIA) report;
- A detailed pedestrian and equestrian circulation plan shall accompany any tentative plat submittal within the Plan area, which generally conforms to the "Pedestrian Circulation Exhibit" accompanying the MDP proposal. The pedestrian circulation system will comply with the standards for Planned Development District Pedestrian Circulation Systems as provided in Section 1503.08.D of the Zoning Regulations;
- A water improvement district, water company, or state-approved equivalent will be formed prior to any final plat approval. All water services to all phases will be provided by this special district. All waste systems within the MDP area shall be subject to the standards set forth in Section 1503.07 of the Zoning Regulations.;
- That a wastewater improvement district or state-approved equivalent will be formed prior to any final plat approval. All wastewater water services to all phases will be provided by this special district. All wastewater systems within the MDP area shall be subject to the standards set forth in Section 1503.07 of the Zoning Regulations.
- Prior to tentative plat approval, or development of any High-Density Residential or Mixed-Use Commercial phase, a finalized Traffic Impact Analysis shall be approved by the County, which accurately analyzes traffic impacts associated with the proposed development. Subsequent development shall adopt and implement all mitigation strategies recommended in such analyses;
- Prior to the first phase of development, the County will be provided with Intent to Serve letters from the applicable Fire District and all applicable utilities, which

demonstrate that commitment to provide such services has been secured. Included within this provision is the requirement that a Memorandum or Letter of Understanding be submitted to the County, which adequately addresses impacts and recommendations of the Willcox School District. This policy will satisfy the requirements of Section 406.06.B.4 of the Zoning Regulations.

- All future development within the MDP area shall be subject to the recommendations of the Hydrology Analysis Report for "Madison 1240," as prepared by Kinetix Engineering and Consultation, dated December 2010;
- All future development within the MDP area shall be subject to the recommendations of the Geotechnical Evaluation, as prepared by Western Technologies, Incorporated and dated March 15, 2004.

The MDP shall be implemented through a method of site plan review by the staff of the Cochise County Planning Department. A site plan review shall be required for all development within the MDP area requiring permit. Tentative parcel and plats may be processed independently of the site plan review procedures, in accordance with the Cochise County Subdivision Regulations. Site plan review would apply to commercial, industrial, and multi-family attached.

All proposed projects with the MDP area shall be required to have an approved site plan prior to issuance of building permits or concurrent with subdivision, special use permits, or any other permits for the property. The site plan review procedure is necessary for the following reasons:

- To ensure consistency with the MDP, the County Comprehensive Plan, zoning regulations, building code, and all implementing ordinances
- To promote the highest contemporary standards of site design
- To adapt to specific or special development conditions that occurs from time to time while continuing to implement the MDP and confirm development to the County Comprehensive Plan and implementing ordinances.
- To facilitate complete documentation of land use entitlements authorized and conditions pertinent thereto
- To adapt to changes that may occur with respect to the circumstances under which the project is undertaken
- Site plan review would apply to all residential, commercial, and industrial building permits

Exemptions

The activities, listed below, are exempt from the site plan review process; however, a building permit may be required. This list is not all-inclusive. Other special activities not covered by the example listing below may be exempt by The Planning Director as well.

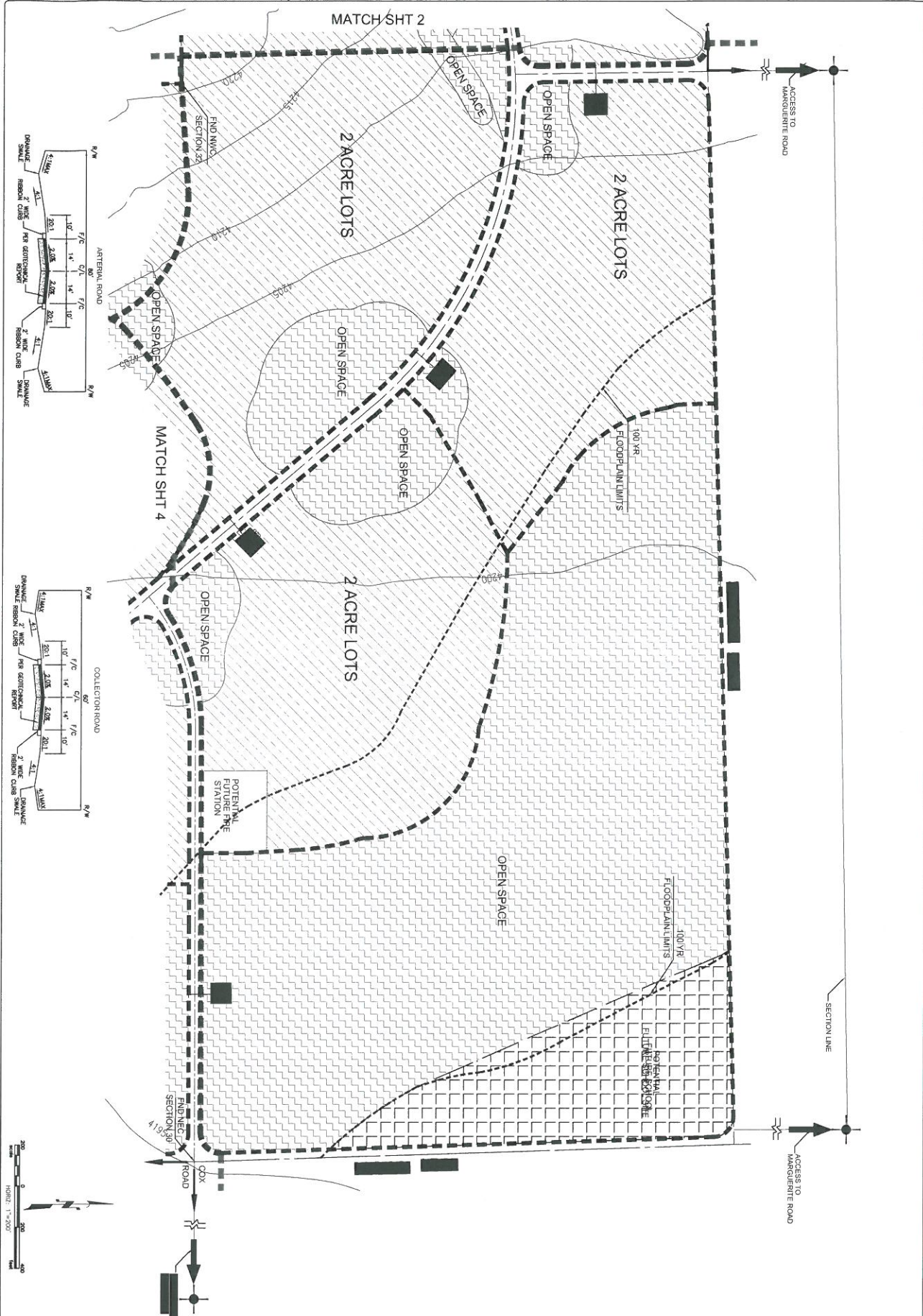
- All interior changes, alternations, construction
- Repainting
- Re-glazing, new mullions
- Re-landscaping of existing structure
- Re-roofing with similar-style roofing materials
 - Minor exterior repairs
 - Exterior mechanical (heating, air conditioning , water heater etc)

Procedures

According to Cochise County procedures, site plans that contain plans, drawings, illustrations, designs, reports, and other detailed information as required herein shall be submitted to the County for review and comment. Applicants are encouraged to submit preliminary plans for review and comment by the Planning Department prior to the final preparation of a site plan. The staff shall seek comment from other County Department and service agencies prior to preparing a site plan.

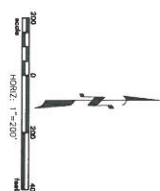
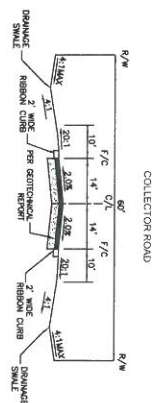
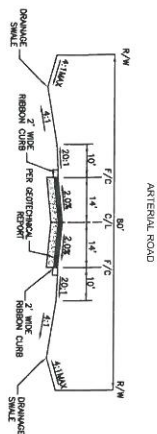
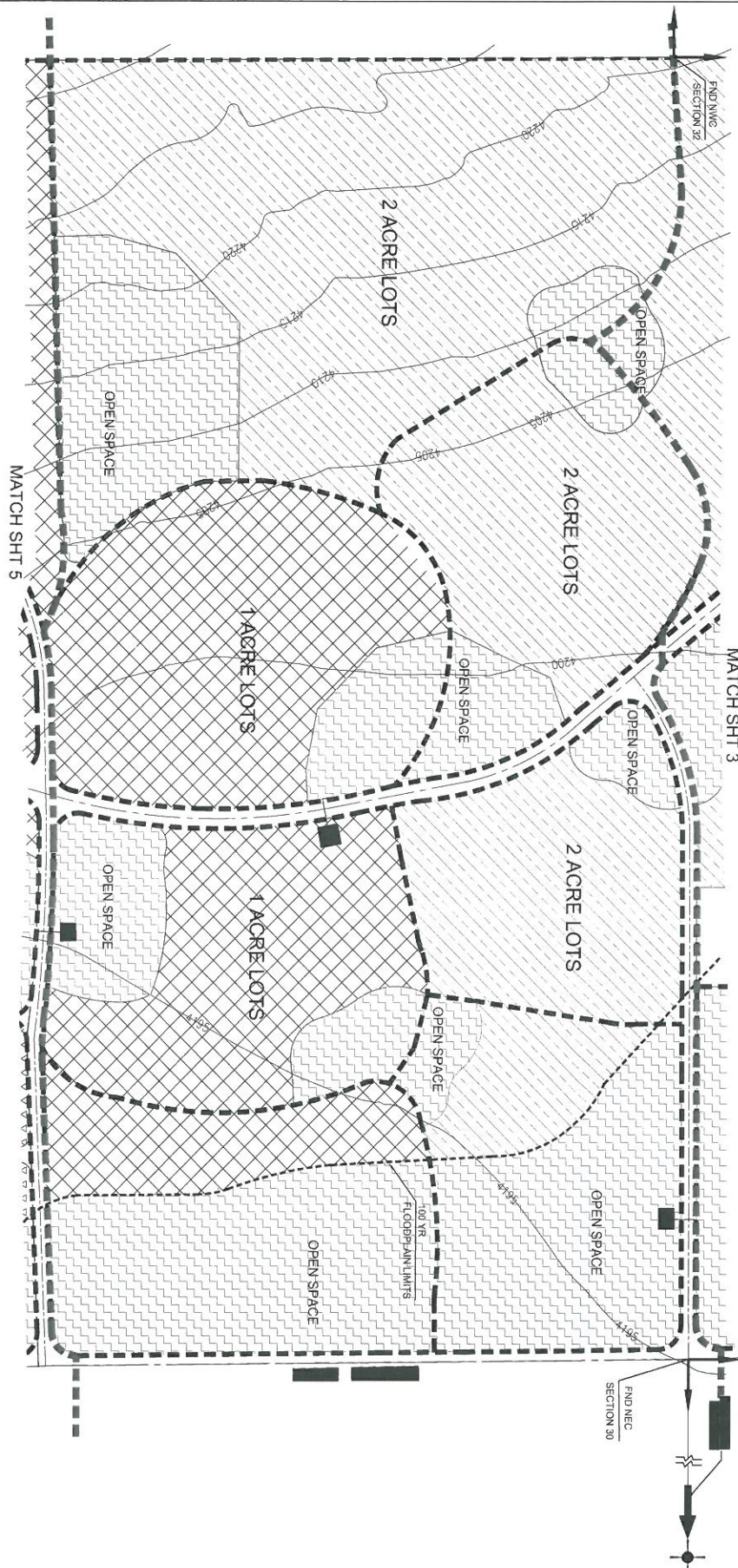
The staff shall seek comment from other County Department and service agencies prior to preparing a recommendation on the finalized MDP site plan.

Applicants should ensure that they have obtained a copy of the design guidelines contained within the MDP. This will assist the developer in achieving consistency with the MDP and generally facilitate a quality project.

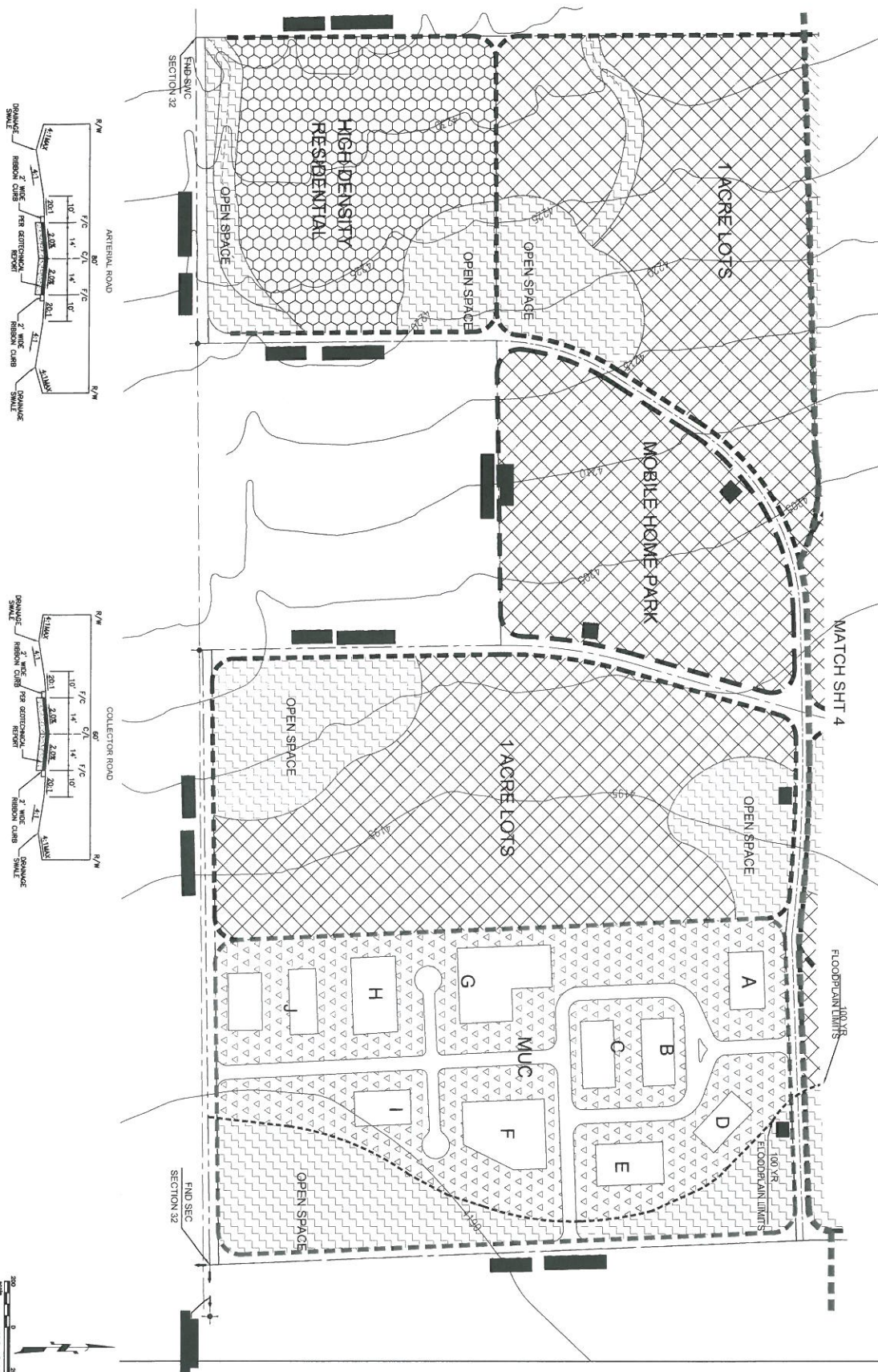


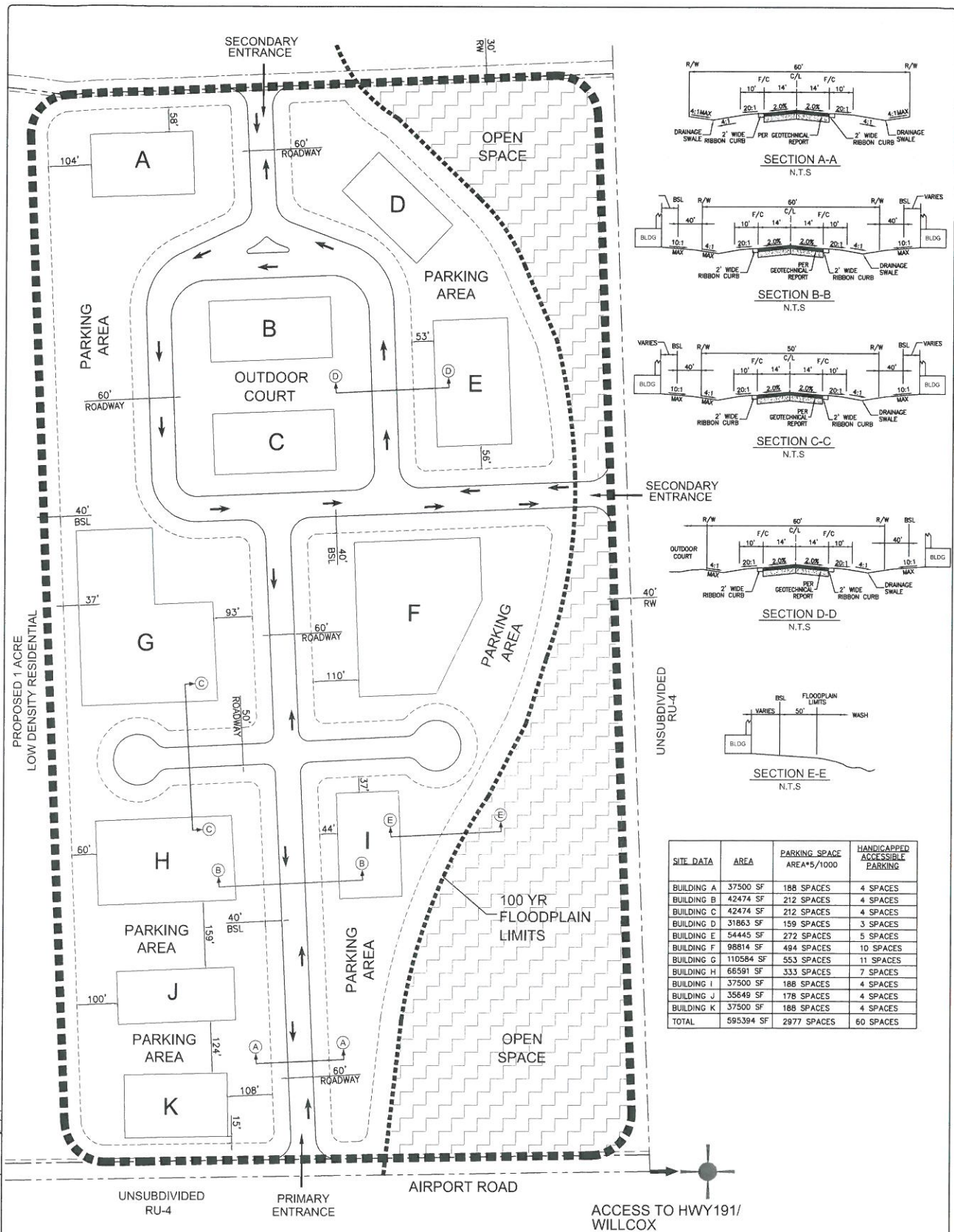
PROJECT: "MADISON 1240" COCHISE COUNTY, ARIZONA		REVISIONS: 1. 07/26/2011 2. 07/26/2011 3. 07/26/2011	
JOB NO.: 09020	SHEET NO.: 3	DATE: 07/26/2011	BY: KINEX

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LOT USE TABLE

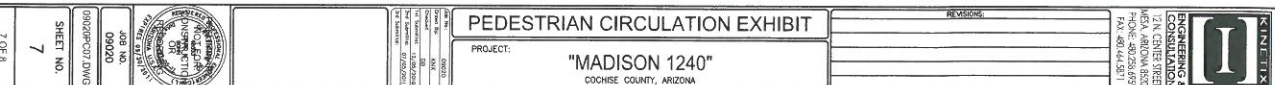
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BUILDING AREA	= 595394 SF (17%)
MAXIMUM BUILDING HEIGHT	= 40 FT
FRONT SETBACK LINE	= 40 FT
REAR SETBACK LINE	= MIN. 20 FT
SIDE SETBACK LINE	= MIN. 5 FT

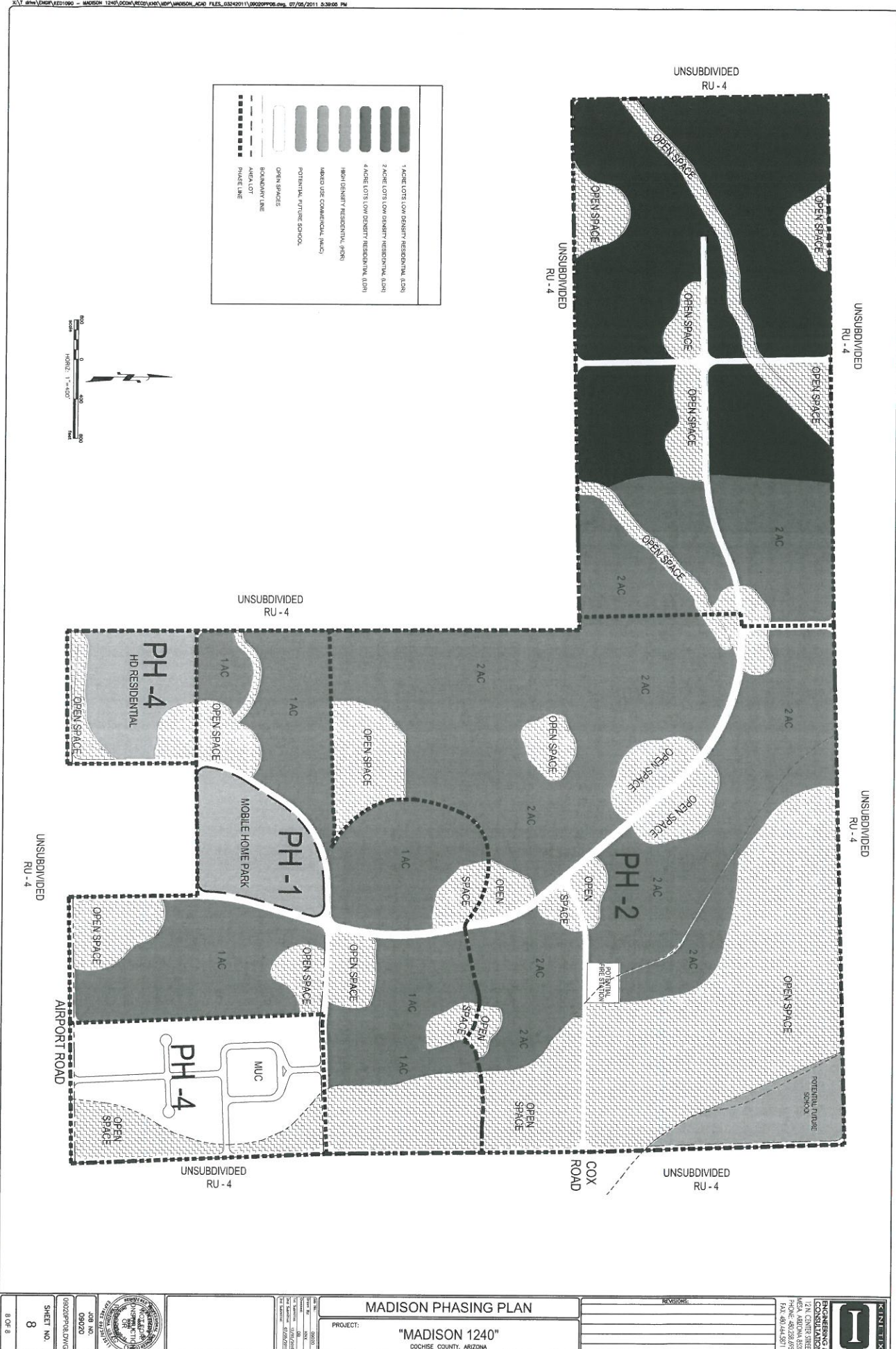
NOTE: SEE MDP REPORT FOR MORE DETAILS CONCERNING MIXED USE COMMERCIAL.

HORIZ: 1"=100'

MIXED USE COMMERCIAL PLAN			
PROJECT: "MADISON 1240"			
COCHISE COUNTY, ARIZONA			
REVISIONS		JOB NO. 09020	
1. 12N. CENTER STREET TUCSON, ARIZONA 85703 PHONE: 480.236.8959 FAX: 480.464.3371		09020MUC06.DWG	
SHEET NO. 6		6 OF 8	

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3. General administration, permit processing, and amendments

The MDP shall be administered and enforced by Cochise County Planning Department, in accordance with the provisions of the Cochise County Zoning Code. Certain changes to explicit provisions in the MDP may be made subject to Section 1505 of the Cochise County Zoning Code. The following items are in addition to Section 1505:

- Adjustments of modifications in the phasing order – as long as infrastructure development is precedent or concurrent.
- Changes in configurations of individual development parcel to include modifications of boundaries, division of larger parcels, or combination of parcels, as long as there is no net loss in overall MDP open space and no net increase in the total number of units allowable within the MDP.
- Changes or modifications in lot sizes and /or lot configuration which encourages diversity of housing types, as long as within the allowable density and density transfers.
- Changes in lot coverage ratios which encourage diversity in housing type by up to 10%, as long as within the allowable density and density transfers.
- Changes in front, rear, or side yard residential setbacks of up to 10% which encourage diversity of housing type, as long as within the allowable density transfers.
- Creation of gated neighborhoods, private streets, or other modifications in common area assets to be voluntarily maintained by a group or resident homeowners, as long as the integrity of the interior circulation plan is maintained.
- Placement and/or construction of identity or character features such as community art, entry monuments, mailboxes, neighborhood signage, etc.
- Addition of a school site or modification of a park site, which enhances the opportunity to create a sense of neighborhood and community, better centralizes the school and / or park sites based on actual development densities, or serves to implement the desires of the School District or County as to the most appropriate location for the school and / or parks site, as long as the maximum number of units within the PD does not increase.
- Terminology, reference, glossary, designation, or nomenclature changes that do not impact the vision of the MDP.

- A transfer of commercial/mixed-use square footage from one mixed-use parcel to another of up to 10%.
- Changes in front, rear, and side yard commercial setbacks of up to 10% when modifications will increase the diversity of employment opportunities or enhance the integration of neighborhoods and mixed-use developments.
- Modifications in the design and construction of infrastructure based upon technological advances when a proposed modification is accepted by the County Highway and Floodplain Department, the County Health Department, the Arizona Department of Transportation, or the Arizona Department of Environmental Quality. Infrastructure capacity based upon planned target densities and intensities of use and phasing of infrastructure precedent or concurrent with development will remain unchanged.
- Modifications in set-asides, encroachments, easements, rights-of-way, open space, so long as the modifications fall within the general overall range and target for the community and are based upon County-accepted technical design and engineering and no net reduction in overall open space results.
- Any analogous interpretations of the list of permitted or conditional uses of the property set forth in the MDP, as determined by the County Planning Director.
- Other changes not identified above as deemed appropriate by the County Planning Director, as long as the changes do not impact the general health, safety, and welfare of the residents of Cochise County.
- The addition of new information to the MDP maps or text that does not change the effect of any regulations or guidelines.
- The determination that a use be allowed which is not specifically listed as permitted but which may be determined to be similar in nature to those uses explicitly listed as permitted.
- Except as explicitly modified herein, the MDP area shall be subject to the applicable policies of the Comprehensive Plan, related to Master Development Plans, Water Conservation and Transportation. The Water Conservation standards in Section 1820 of the Zoning Regulations shall also apply to all new construction.
- Prior to tentative plat approval for any phase of development, the Applicant shall provide a draft charter for a property maintenance district which will be responsible for HOAs within the Plan area. The draft CC&Rs shall include provisions which obligate the association to maintain all open space, trail system, common areas parks, landscaping in common areas and medians,

entry features, and etc within the development. The CC&Rs shall also include deed restrictions enforcing the site development standards proposed within the MDP Area.

- A general note shall be included on all future plats indicating compliance with the MDP standards, policies, development standards, water conservation and architectural guidelines.
- All roads, sidewalks, curb and gutters where applicable, on-site and off-site improvements shall be constructed to County standards as set forth in the *Cochise County Standards Road Design & Construction Standards for Public Improvements*. The vehicular circulation system shall be designed and implemented in accordance with the standards for Planned Development District Access, Circulation and Street Improvements as provided in Section 1503.08.A of the Zoning Regulations and as set forth in an approved Traffic Impact Analysis (TIA) report;
- A detailed pedestrian and equestrian circulation plan shall accompany any tentative plat submittal within the Plan area, which generally conforms to the "Pedestrian Circulation Exhibit" accompanying the MDP proposal. The pedestrian circulation system will comply with the standards for Planned Development District Pedestrian Circulation Systems as provided in Section 1503.08.D of the Zoning Regulations;
- A water improvement district, water company, or state-approved equivalent will be formed prior to any final plat approval. All water services to all phases will be provided by this special district. All waste systems within the MDP area shall be subject to the standards set forth in Section 1503.07 of the Zoning Regulations.;
- That a wastewater improvement district or state-approved equivalent will be formed prior to any final plat approval. All wastewater water services to all phases will be provided by this special district. All wastewater systems within the MDP area shall be subject to the standards set forth in Section 1503.07 of the Zoning Regulations.
- Prior to tentative plat approval, or development of any High-Density Residential or Mixed-Use Commercial phase, a finalized Traffic Impact Analysis shall be approved by the County, which accurately analyzes traffic impacts associated with the proposed development. Subsequent development shall adopt and implement all mitigation strategies recommended in such analyses;
- Prior to the first phase of development, the County will be provided with Intent to Serve letters from the applicable Fire District and all applicable utilities, which

demonstrate that commitment to provide such services has been secured. Included within this provision is the requirement that a Memorandum or Letter of Understanding be submitted to the County, which adequately addresses impacts and recommendations of the Willcox School District. This policy will satisfy the requirements of Section 406.06.B.4 of the Zoning Regulations.

- All future development within the MDP area shall be subject to the recommendations of the Hydrology Analysis Report for "Madison 1240," as prepared by Kinetix Engineering and Consultation, dated December 2010;
- All future development within the MDP area shall be subject to the recommendations of the Geotechnical Evaluation, as prepared by Western Technologies, Incorporated and dated March 15, 2004.

The MDP shall be implemented through a method of site plan review by the staff of the Cochise County Planning Department. A site plan review shall be required for all development within the MDP area requiring permit. Tentative parcel and plats may be processed independently of the site plan review procedures, in accordance with the Cochise County Subdivision Regulations. Site plan review would apply to commercial, industrial, and multi-family attached.

All proposed projects with the MDP area shall be required to have an approved site plan prior to issuance of building permits or concurrent with subdivision, special use permits, or any other permits for the property. The site plan review procedure is necessary for the following reasons:

- To ensure consistency with the MDP, the County Comprehensive Plan, zoning regulations, building code, and all implementing ordinances
- To promote the highest contemporary standards of site design
- To adapt to specific or special development conditions that occurs from time to time while continuing to implement the MDP and confirm development to the County Comprehensive Plan and implementing ordinances.
- To facilitate complete documentation of land use entitlements authorized and conditions pertinent thereto
- To adapt to changes that may occur with respect to the circumstances under which the project is undertaken
- Site plan review would apply to all residential, commercial, and industrial building permits

Exemptions

The activities, listed below, are exempt from the site plan review process; however, a building permit may be required. This list is not all-inclusive. Other special activities not covered by the example listing below may be exempt by The Planning Director as well.

- All interior changes, alternations, construction
- Repainting
- Re-glazing, new mullions
- Re-landscaping of existing structure
- Re-roofing with similar-style roofing materials
 - Minor exterior repairs
 - Exterior mechanical (heating, air conditioning , water heater etc)

Procedures

According to Cochise County procedures, site plans that contain plans, drawings, illustrations, designs, reports, and other detailed information as required herein shall be submitted to the County for review and comment. Applicants are encouraged to submit preliminary plans for review and comment by the Planning Department prior to the final preparation of a site plan. The staff shall seek comment from other County Department and service agencies prior to preparing a site plan.

The staff shall seek comment from other County Department and service agencies prior to preparing a recommendation on the finalized MDP site plan.

Applicants should ensure that they have obtained a copy of the design guidelines contained within the MDP. This will assist the developer in achieving consistency with the MDP and generally facilitate a quality project.



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., Community Development Director

MEMORANDUM

TO: Keith Dennis, Planner II

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

SUBJECT: **Madison 1240 Master Development Plan/MDP 11-01/Z-11-03**

DATE: August 16, 2011

The applicant, Madison Diversified, is proposing a Master Development Plan (MDP) with a mix of residential and commercial uses on a 1,240 acre site located west of the City of Willcox. Access is taken from Airport Rd., currently a two-lane, native surfaced, 20-foot wide cross-section, county-maintained rural minor collector. Average traffic on this corridor is about 148 trips per day (October 2009 counts). Currently there is no posted speed limits along the native-surfaced roadway. There are no current County plans to improve this roadway.

The Master Development Plan anticipates up to 918 housing units and approximately 500,000 square feet of commercial uses. The Madison 1240 proposed residential development is anticipated to generate an estimated 8,785 daily trips per the ITE Manual, 8th ed. The commercial development has the potential of generating close to 25,000 daily trips at full-build out. Factors influencing average daily trips include seasonal use, persons per household, income levels and proximity of services and shopping. Commercial uses also have large ranges of potential trips depending on the mix and interdependency of available services and retail. Internal circulation and access to the roadway network will need to be considered in more detail as the MDP builds out over time.

Avenue Consultants prepared a Traffic Impact Analysis Report (TIA), dated December 10, 2010, for the proposed MDP. A supplemental report was provided by TASK Engineering on August 5, 2011. The combined reports are in substantive conformance with the requirements for a TIA and provide a set of recommendations for phasing needed off-site improvements for this proposed development.

Right-of-Way acquisition poses an substantive challenge in providing an adequate roadway infrastructure to meet the needs of the Madison 1240 development. The applicants are advised to anticipate these needs and look to opportunities to acquire needed roadway alignments.

Recommendation

Transportation related mitigation for development impacts will be phased in over time as the MDP builds out. Off-site mitigation as the development builds out over time is anticipated to include:

- Right-of-Way acquisition and surface improvement of Airport Rd. prior to and during the development of Phase 1;

Handwritten initials "H" and "D" in blue ink.

- ✚ Extension and upgrades to Airport Rd. prior to and during development of Phases 1 and 2;
- ✚ Preservation of Right-of-Way alignments and possible future land acquisition for connectivity to Cox Rd. and Marguerite Rd. prior to and during the development of Phase 2 and/or Phase 3;
- ✚ An updated and revised TIA prior to the development of commercial sites as part of Phase 3 and/or Phase 4;
- ✚ A signal warrant study and left turn movement analysis completed as part of the revised TIA prior to Phase 4;
- ✚ Commercial scaled (wide turning radii) access aprons with left-turn bays for access roads onto Airport Rd.;
- ✚ Right-of-Way widths for major collector and access roads within the MDP should plan for a minimum of 100 to 80 feet to accommodate the concurrent or future development of bike lanes and multi-use pathways;
- ✚ Internal roadways to meet or exceed County Design Standards and Specifications;
- ✚ Pedestrian facilities, including bus pull-outs, should be included in design features at the subdivision and commercial development stage.

The applicants will need to obtain Right-of-Way permits as well as Encroachments permits for the construction of proposed new access points and improvements to county-maintained roadways through the County's Highway and Floodplain Department. Off-site improvements will be guided by the TIA and supplemental report. The ultimate configuration of Airport Rd. will be a rural major collector roadway. Improvements will be phased in over time as appropriate for submitted subdivision plats and commercial plans. The first phase (329 residential units) is anticipated in the year 2013 with future phases building out over a ten to fifteen year period.

cc: Docket MDP 11-01/Z-11-03

From: Richard B. Obenshain [rbobenshain@azwater.gov]
Sent: Monday, April 18, 2011 1:22 PM
To: Dennis, Keith
Cc: Doug W. Dunham
Subject: Madison 1240 Master Plan

Attachments: 234015510000_AAWS.pdf

Dear Mr. Dennis,

The Arizona Dept. of Water Resources examined this particular property in 2005, when it was known as the "Winchester, AZ" master plan development. The owner at that time, Vanguard Development, LLC, applied to the Department for an Analysis of Adequate Water Supply. The Department found that 343.4 acre-feet/year of groundwater was physically available to meet the demand of the development as then proposed. A copy of the Department's 2005 determination is attached. The new owner of the property may rely on the physical availability proven in 2005. However, if the demand of the current master plan exceeds this amount, an additional hydrological study may be required. As you are aware, Cochise County adopted the mandatory adequacy provisions of SB 1575, effective April 18, 2008. Consequently, the developer must apply to the Department for a Water Report and meet all Adequate Water Supply criteria before a subdivision plat can be recorded. Please do not hesitate to contact me if you have any questions.

Rick Obenshain, Water Resource Specialist
Recharge, Assured & Adequate Water Supply Programs
Arizona Department of Water Resources
3550 N. Central Ave., 2nd Floor
Phoenix, AZ 85012
Phone: (602)771-8622
Fax: (602)771-8689

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ARIZONA DEPARTMENT OF WATER RESOURCES

Office of Assured and Adequate Water Supply

500 North Third Street, Phoenix, Arizona 85004

Telephone (602) 417-2465

Fax (602) 417-2467



JANET NAPOLITANO
Governor

HERB GUENTHER
Director

ANALYSIS OF ADEQUATE WATER SUPPLY

April 19, 2005

File Number: 23-401551.0000
Development: Winchester AZ
Location: Township 13 South, Range 24 East, Sections 29, 30, 32
Cochise County, Arizona
Land Owner: Vanguard Development LLC

The Arizona Department of Water Resources has evaluated the application for an Analysis of Adequate Water Supply for Winchester AZ pursuant to A.A.C. R12-15-723. The proposed development includes 1,200 single-family residential lots. Conclusions of the review are indicated below based on the adequate water supply criteria referenced in A.R.S. § 45-108 and A.A.C. R12-15-701, 715, 723 *et seq.*

- **Physical, Continuous, and Legal Availability of Water for 100 Years**
On the basis of the Department's review, the Department has determined that 343.4 acre-feet per year of groundwater will be **physically available**, which is equivalent to the applicant's projected build out demands for the development, including system losses, of 343.4 acre-feet per year. No provider currently exists for this area; a central water provider will be formed at a future date. Therefore, neither **legal availability** nor **continuous availability** of the water has been proven at this time. Applications for Water Adequacy Reports that follow this Analysis of Adequate Water Supply will need to demonstrate that the water provider has been formed and has met all legal requirements. Individual Notices of Intent to Serve will be required for each application for a Water Adequacy Report.
- **Adequate Water Quality**
Because there is no existing system, compliance with Arizona Department of Environmental Quality drinking water quality standards cannot be demonstrated at this time. Water from the current project well exceeds standards for fluoride. Each application for a Water Adequacy Report that follows this Analysis of Adequate Water Supply must demonstrate the existence of a central water provider with a treatment system approved by the Arizona Department of Environmental Quality for treatment of fluoride and any other contaminants which exceed drinking water standards.

The term of this Analysis of Adequate Water Supply is ten years from the date of this letter and may be renewed upon request, subject to approval by the Department. Throughout the term of this determination, the projected demand of this development will be considered when reviewing other requests for assured water supply in the area.

Prior to obtaining plat approval by the local platting authority and approval of the public report by the Department of Real Estate, a Water Adequacy Report must be obtained for each subdivision plat. The findings of this Analysis of Adequate Water Supply may be used to demonstrate that certain requirements for a Water Adequacy Report have been met. This determination may be invalidated if the development plan or other conditions change prior to filing for a Water Adequacy Report.

Questions may be directed to the Office of Assured/Adequate Water Supply at (602) 417-2465.



Mark Frank, Acting Assistant Director
Water Management Division

cc: Vanguard Development, LLC
Alan R. Dulaney, Office of Assured/Adequate Water Supply
Nicole Swindle, Legal Division

Dennis, Keith

From: Tim Bolton [tbolton@land.az.gov]
Sent: Wednesday, June 08, 2011 2:36 PM
To: Dennis, Keith
Subject: Madison 1240

Hi Keith - I reviewed the above-mentioned proposal for potential impact to surrounding State Land and have no comments. Once submitted, the Department would appreciate the opportunity to review the tentative plat, detailed drainage report and traffic impact analysis. Please contact me with any questions, thank you

~~~~~  
Tim Bolton  
Principal Planner  
Arizona State Land Department  
Southern Arizona Real Estate Office  
177 N Church, Suite 1104  
Tucson, AZ 85701  
(P) 520-209-4263  
(f) 520-209-4251  
<http://www.land.state.az.us/>





June 9, 2011

COCHISE COUNTY PLANNING AND ZONING DEPARTMENT  
1415 Melody Lane, Building E  
Bisbee, Arizona 85603  
Ph: 520-432-9240  
Fax: 520-432-9278

**Attn: Keith Dennis**

Re: Waiver Request to Extend Construction Period for Madison 1240 Development.

To whom it may concern,

This letter is written on behalf of Madison Diversified, owner of the proposed abovementioned subdivision, Madison 1240, as a formal request to allow variance to the stipulated 5 year time limit per Cochise County development standards.

The reason for this request is due to sheer size of this project, which is 1240 acres total, or approximately 2 square miles. When considering the current market conditions and the historical growth for both Cochise County and the City of Willcox, it is anticipated that this development will need more than 5 years to complete construction based on the projected demands. This request will not adversely affect the development of this property as well as the properties that are adjacent to it. It anticipated that a more realistic timeframe for development completion would be closer to 12-15 years.

It is the request of the owner/developer, Madison Diversified, that the County allow this waiver so that the development of this property can follow a more pragmatic schedule.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "DM Bohn".

David Matthew Bohn, PE  
Kinetix Engineering & Consultation  
12 N. Center Street  
Mesa, AZ 85201



July 5, 2011

**COCHISE COUNTY PLANNING AND ZONING DEPARTMENT**

1415 Melody Lane, Building E

Bisbee, Arizona 85603

Ph: 520-432-9240

Fax: 520-432-9278

**Attn: Keith Dennis**

Re: Waiver Request to Reduce Open Space Minimum Requirement to 45% for Madison 1240 Development.

To whom it may concern,

This letter is written on behalf of Madison Diversified, owner of the proposed abovementioned subdivision, Madison 1240, as a formal request to allow variance to the 50% minimum open space requirement per Cochise County development standards.

The reason for this request is to allow the developer more flexibility to utilize the developable land within the Madison 1240 area. Currently, the developer has proposed to dedicate approximately 23 acres to the Wilcox Unified School District along with an additional 3 acres in support of a new fire / police station. Given these prospective parcels, it is the hope of the developer that the County will allow for a minor reduction in the open space criteria so that the developer is granted slightly more flexibility to improve his property.

It is the request of the owner/developer, Madison Diversified, that the County allow this waiver to provide the developer with more flexibility in the development of his property.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "DM Bohn".

David Matthew Bohn, PE  
Kinetix Engineering & Consultation  
12 N. Center Street  
Mesa, AZ 85201



12 N. Center Street, Mesa, AZ 85201  
Ph: 480-258-6959  
Fax: 480-452-1786

---

**Madison Diversified**

#115-988 Beach Avenue  
Vancouver, B.C., Canada  
Fax: 604-685-2533  
Attn: James Lee

RE: Madison 1240, generally described as the South half of Section 29, the South half of Section 30, all of Section 32 except for the southeast quarter of the southwest quarter (approx. 40 acre exception), T13S, R24E of the Gila and Salt River Base and Meridian, Cochise County, Arizona; owned by Madison Diversified.

Requested Rezone as follows: RU to Master Development Plan (MDP)

Dear Property Owner:

We, Madison Diversified, have applied for a Master Development for the above captioned property. The Cochise County Zoning Ordinance requires all property owners within 1000' of the subject property be notified of this request. The enclosed Vicinity Map and Site Map is included for your reference of the property's location and potential development.

You are being notified because your property could be affected by the proposed request.

Project Description: A Master Planned Development which will mostly include residential lots ranging from 1-4 acres in size, along with a Mixed Use Commercial component and High Density as well. Traffic will enter and exit along Airport Road. We would be happy to meet so please let us know if that is something that you would like to do. Your input is very important to us. We look forward to hearing from you.

Please direct written comments to the Cochise County Planning and Zoning Office at the following address:

Cochise County Planning and Zoning  
1415 Melody Lane, Building E  
Bisbee, Arizona 85603

As the agent for Madison Diversified, you may direct your questions or comments to Kinetix Engineering & Consultation per the contact information above, or Cochise County Planning and Zoning Office.

Thank you,

A handwritten signature in black ink, appearing to read "DM Bohn", written over a horizontal line.

David Matthew Bohn, PE  
Kinetix Engineering & Consultation

(Madison Notification Letter)

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# CIAL USE: Docket Z-11-03 / MDP-11-01 (Madison 1240)

☒ YES, I SUPPORT THIS REQUEST

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

BETTERMENT OF THE COMMUNITY

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

☐ NO, I DO NOT SUPPORT THIS REQUEST:

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

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

(Attach additional sheets, if necessary)

PRINT NAME(S): OTIS G. BROGDON Wanda Brogdon

SIGNATURE(S): Otis G. Brogdon Wanda Brogdon

YOUR TAX PARCEL NUMBER: 202-31-002A (the eight-digit identification number found on the tax statement  
from the Assessor's Office) Prop. add: 4971 W. Marguerite Rd. Wilcox, AZ 85643

YOUR ADDRESS 10 CR. 3693, AZtec, NM 87410

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 May 30, 2010 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

MAY 24 2011

PLANNING

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# SPECIAL USE: Docket Z-11-03 / MDP-11-01 (Madison 1240)

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

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

COCHISE COUNTY

MAY 17 2011

PLANNING

☒ NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: What happens if our water level in wells

High Density Housing would severely impact our water. Is a  
sewer treatment planned, if it does would the County be  
responsible to maintain this plant? The City of Willcox  
does not need competition in stores and product sales.  
Would all the roads paved? Keep Willcox as is.

(Attach additional sheets, if necessary)

High density Housing is wrong for the Area,

PRINT NAME(S):

Jack C. Harris

Shelby J. Harris

SIGNATURE(S):

Jack C. Harris

Shelby J. Harris

YOUR TAX PARCEL NUMBER: 202-32-0020-6 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 5500 W. Marquette Rd. Willcox AZ 85643 384-3519

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 May 30, 2010 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

Why not have these meetings  
in the Area that will be impacted  
Having meeting would reduce attendance  
to the meetings (Gasoline and the drive in)  
right

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## **ZONING ORDINANCE 11-\_\_\_**

### **(i) AMENDING CERTAIN COCHISE COUNTY ZONING DISTRICT BOUNDARIES FROM, RU-4 (RURAL, ONE DWELLING PER 4 ACRES), TO PD (PLANNED DEVELOPMENT DISTRICT), (ii) AMENDING THE COCHISE COUNTY COMPREHENSIVE PLAN, AND (iii) APPROVING A MASTER DEVELOPMENT PLAN, PURSUANT TO THE APPLICATION OF JAMES LEE OF MADISON DIVERSIFIED**

**WHEREAS**, A.R.S. § 11-829 allows property owners or their authorized agent to request amendments to the Zoning District boundaries through the Board of Supervisors in a public hearing; and

**WHEREAS**, the Cochise County Board of Supervisors recognizes that zoning amendments can affect land use patterns and therefore warrant careful consideration of local and regional impacts at a public hearing; and

**WHEREAS**, Section 406.02 of the Cochise County Zoning Regulations requires the adoption of a Master Development Plan when a rezoning to the Planned Development District is proposed; and

**WHEREAS**, Section 406.02 of the Cochise County Zoning Regulations states that the adoption of a Master Development Plan shall serve as an amendment to the Comprehensive Plan, changing the Growth Category and Plan Designation of the parcels subject to the Master Development Plan; and

**WHEREAS**, the Cochise County Board of Supervisors promotes effective, early and continuous public participation by citizens; and

**WHEREAS**, the Planning and Zoning Commission held a duly noticed public hearing on the proposed amendments to the Zoning District boundaries, the master development plan and amendment to the Comprehensive Plan, hereby known as Dockets MDP-11-01/Z-11-03; and

**WHEREAS**, the Board of Supervisors held a duly noticed public hearing on the amendments to the Zoning District boundaries, the Master Development Plan and amendment to the Comprehensive Plan, as proposed by James Lee of Madison Diversified; and

**WHEREAS**, the Board of Supervisors approved the rezoning, and the Master Development Plan with the accompanying amendment to the Comprehensive Plan, with the conditions noted below,

## **ZONING ORDINANCE 11-\_\_\_\_**

**Re: Dockets MDP-11-01/Z-11-03, Application of James Lee of Madison Diversified**

**Page 2**

**NOW, THEREFORE, BE IT RESOLVED** that the Cochise County Zoning District Boundaries and the Cochise County Comprehensive Plan shall be amended as follows:

The Zoning District classification for the 1,240-acre tract known as Madison 1240, consisting of Parcels 202-35-002A, 002B, 005, 202-01-009C, 009D, 009E, and 202-23-004, is hereby amended, re-zoning the Madison 1240 tract from RU-4 (Rural) to PD (Planned Development District). The Cochise County Comprehensive Plan is hereby amended, such that the Comprehensive Plan Growth Category and Plan Designation for the Madison 1240 tract shall be re-designated from Category D – Rural to Category B – Developing. The Madison 1240 Master Development Plan, to which all future development within the Madison 1240 tract shall henceforth be subject, is hereby approved. The change in Zoning District boundaries, the Comprehensive Plan Amendment, and the Madison Master Development Plan approval are subject to the following conditions:

1. Prior to any development for Phase 1, the Developer shall provide the County with an exaction towards improvement costs along Airport Road, in the amount of \$109,016.00. The remaining recommendations of the August 23, 2011 traffic study, as prepared by Task Engineering, shall be binding on the project; future traffic study recommendations shall also be adhered to as the project develops.
2. Upon Board of Supervisors approval of the Madison 1240 Master Development Plan, the tract shall be re-designated as a Category B Growth Area, with a “Developing” Plan Designation.
3. All development within the MDP area shall conform to the architectural guidelines, development standards, and other policies and regulations set forth in the MDP Report, Plan Map, Site Plans and other exhibits provided as part of the Madison 1240 MDP. Where there is any conflict between the MDP regulations or policies and those of the Cochise County Zoning Regulations, the MDP regulations shall take precedent. In the event that a development standard or other regulation is found to be missing from the MDP, such circumstance shall be resolved through the closest applicable Section of the County Zoning or Subdivision Regulations, subject to reasonable interpretation by the County Planning Director.
4. Within 90 days of Board approval, the Developer shall provide dedicated Right-of-Way along Airport Road for the entire MDP area frontage along this road;
5. Prior to the issuance of any building permits, the Applicant will provide a letter of intent to serve from a fire/emergency services provider;
6. Prior to the issuance of any land clearing permits, the Applicant will provide a Drainage Report that meets the standards and requirements of the County Highway and Floodplain Department and other applicable State and Federal Laws;

**ZONING ORDINANCE 11-\_\_\_\_**

**Re: Dockets MDP-11-01/Z-11-03, Application of James Lee of Madison Diversified**

**Page 3**

7. The developers shall be required to obtain all other necessary permits and licenses prior to the construction or operation of any use described in the MDP pursuant to local, state, and federal laws and regulations. Any proposed development plan, rezoning or land use that is not deemed to be in substantial conformance with the Madison MDP shall be subject to review by the Planning Department and may require an MDP amendment process;
8. In accordance with Section 1503.05, at least 50% of the gross area of any residential portion of the development shall be retained as open space; at least 10% of the gross area of any non-residential portion of the development shall be retained as open space;
9. Unless allowed by Board of Supervisors action, the Developer shall submit a development plan or subdivision tentative plat for Phase 1 within three years of Board approval, otherwise the Planned Development rezoning may be brought before the Board of Supervisors for revocation;
10. Unless allowed by Board of Supervisors action, the Madison MDP must be fully developed prior to January 1, 2020, otherwise the MDP may be brought before the Board of Supervisors for revocation.
11. All residential and commercial water uses will be required to comply with Section 1820 of the Cochise County Zoning Regulations and Section 412 of the Cochise County Subdivision Regulations;
12. The Applicant shall provide the County a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the Madison MDP parcels within thirty (30) days of approval from the Board of Supervisors;

**PASSED AND ADOPTED** by the Board of Supervisors of Cochise County, Arizona, this 27<sup>th</sup> day of September, 2011.

---

Patrick G. Call, Chairman  
Board of Supervisors

**ATTEST:**

**APPROVED AS TO FORM:**

---

Katie Howard,  
Clerk of the Board

---

Britt W. Hanson, Chief Civil  
Deputy County Attorney



# Docket MDP-11-01 / Z-11-03

A 1,240 Acre Master Development Plan Proposal,  
West of Willcox, AZ.

Cochise County Board of Supervisors  
September 27, 2011



# Docket MDP-11-01 / Z-11-03 (Madison 1240)

- 1,240-Acre Master Development Plan (MDP) proposal;
- Rezoning proposal to Planned Development District (PDD) for the proposed MDP;
- Four-phase development plan, with densities ranging from 12 dwellings per acre to one dwelling per four acres, including a commercial mixed use area;



# Madison 1240

- The subject property is located west of incorporated Willcox, Arizona, along the north side of Airport Road (between Mileposts 10 and 11). The Parcels subject to the Application are: 202-35-002A, 002B, 005, 202-01-009C, 009D, 009E, 202-23-004.
- The Applicant, James Lee, is represented by David Bohn of Kinetix Engineering.



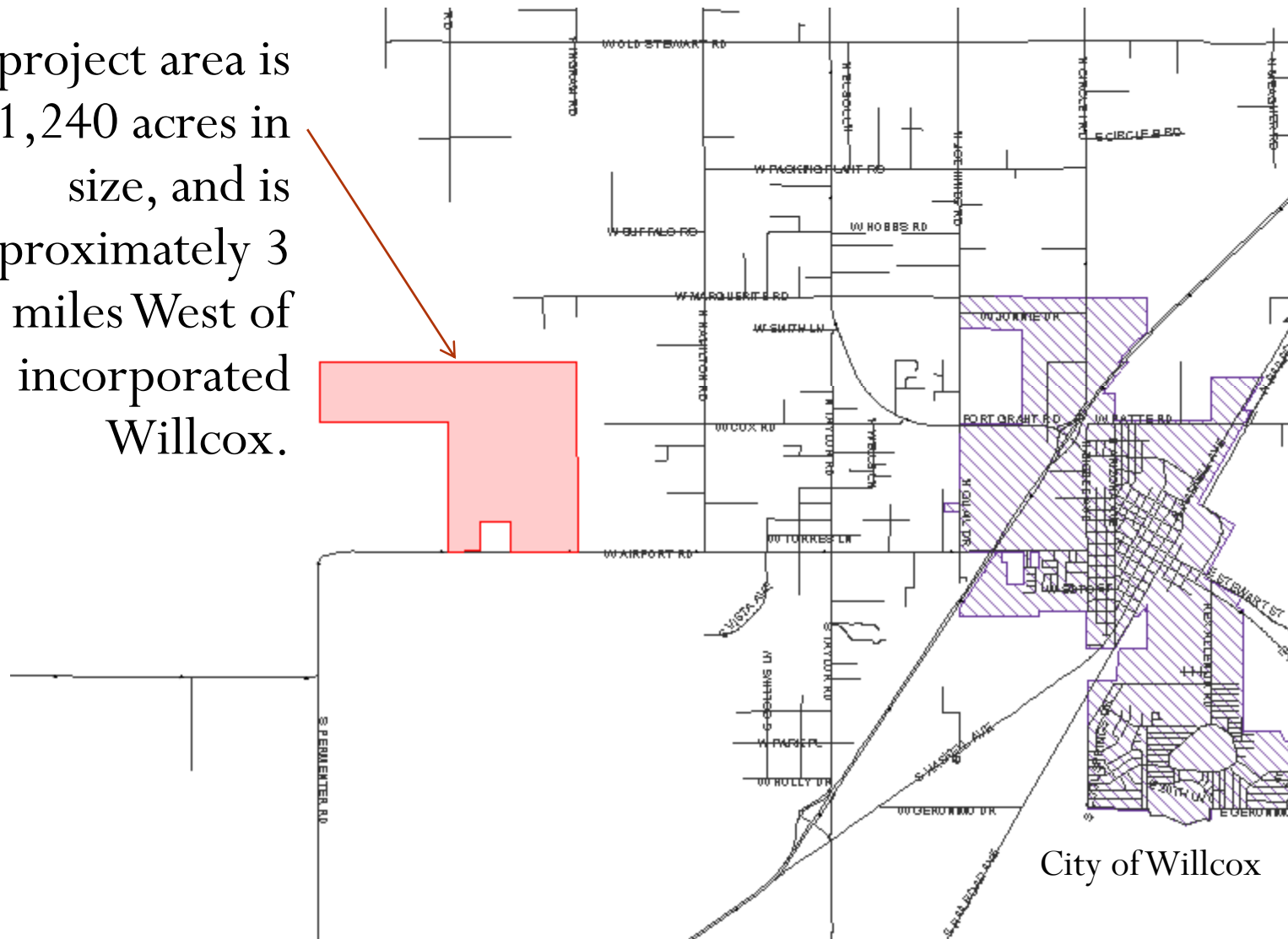
# Background

- On July 13, 2011, the Planning and Zoning Commission voted unanimously (5 – 0) to recommend approval of these Dockets to the Board of Supervisors.
- On August 23, the Board tabled this item;
- On September 13, the Board held a work session to discuss issues related to adequate provision of infrastructure to support the development.



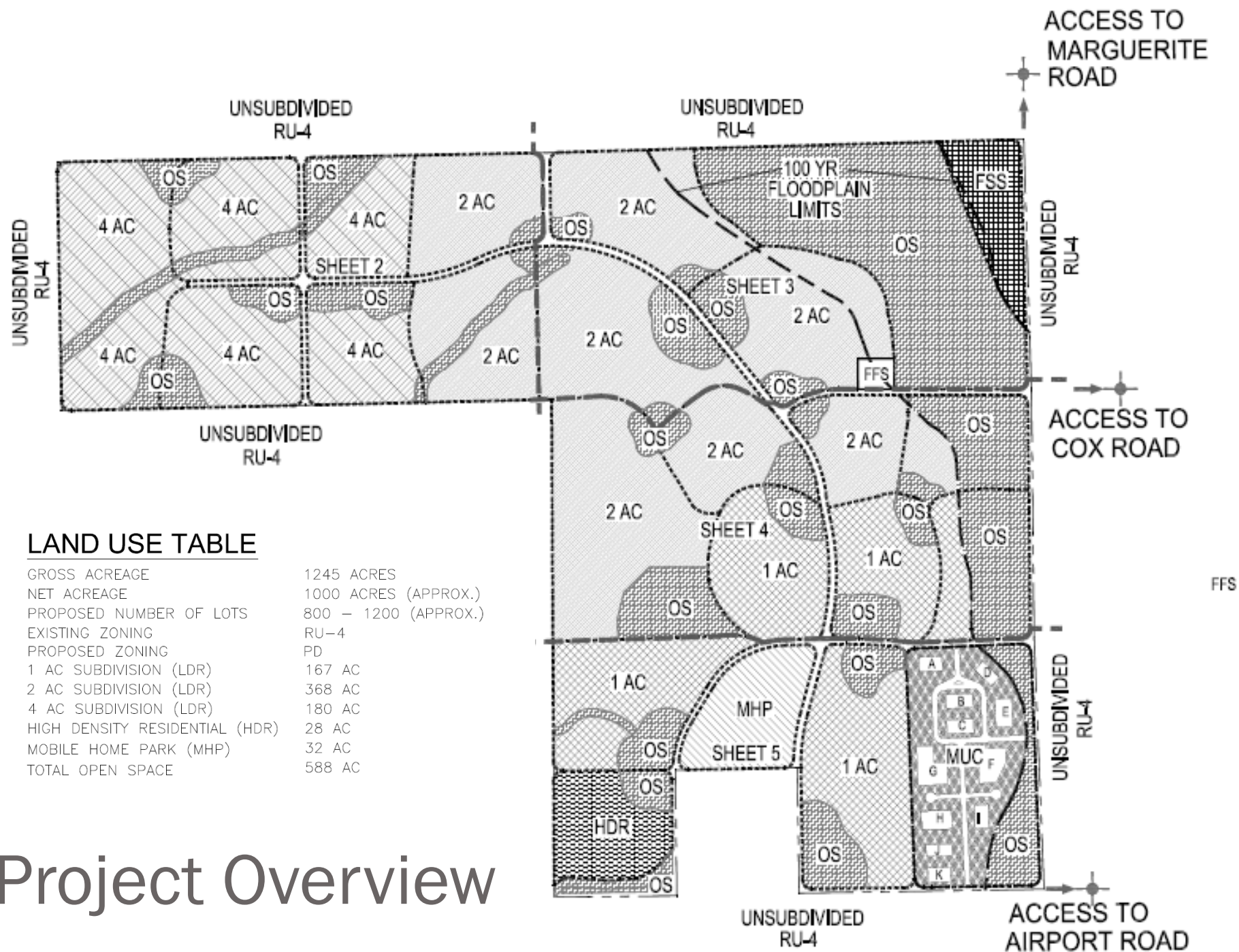
# Location

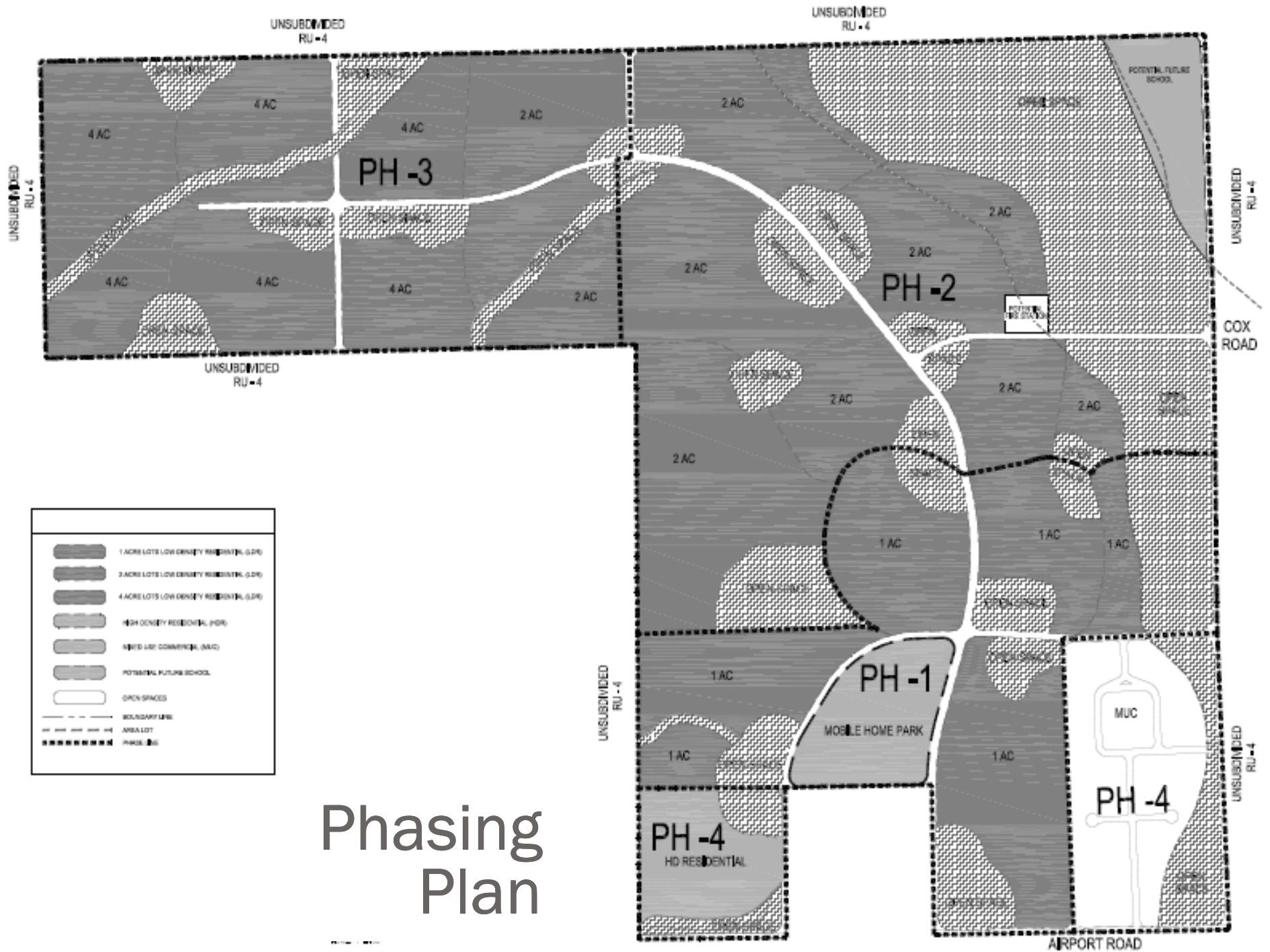
The project area is 1,240 acres in size, and is approximately 3 miles West of incorporated Willcox.



City of Willcox







# Phasing Plan

# Work Session - Road Exaction

- The Board has instead asked for a contribution of \$109,016 to ongoing Airport Road improvements;
- Condition #1 (new) requires the exaction prior to any Phase 1 development.



# Work Session - Right of Way

- Previously, staff recommended a dedication of right-of-Way along Airport Road prior to development of Phase 1;
- Condition #4 now requires dedication within 90 days of Board approval.

# Water Conservation

- Condition #10 (new) would require water conservation measures per the Zoning and Subdivision Regulations.

# Recommendation

Based on the factors in favor of approval, staff recommends **Conditional Approval** of Dockets Z-11-03 and MDP-11-01. Staff submits the following approval conditions for Board consideration:

1. Prior to issuance of any permit, the Developer shall provide the County with an exaction towards improvement costs along Airport Road, in the amount of \$109,016.00. The remaining recommendations of the August 23, 2011 traffic study, as prepared by Task Engineering, shall be binding on the project; future traffic study recommendations shall also be adhered to as the project develops;
2. Upon Board of Supervisors approval of the Madison 1240 Master Development Plan, the tract shall be re-designated as a Category B Growth Area, with a “Developing” Plan Designation.



## Recommendation (Continued)

3. All development within the MDP area shall conform to the architectural guidelines, development standards, and other policies and regulations set forth in the MDP Report, Plan Map, Site Plans and other exhibits provided as part of the Madison 1240 MDP. Where there is any conflict between the MDP regulations or policies and those of the Cochise County Zoning Regulations, the MDP regulations shall take precedent. In the event that a development standard or other regulation is found to be missing from the MDP, such circumstance shall be resolved through the closest applicable Section of the County Zoning or Subdivision Regulations, subject to reasonable interpretation by the County Planning Director.





## Recommendation (Continued)

4. Within 90 days of Board approval, the Developer shall provide dedicated Right-of-Way along Airport Road for the entire MDP area frontage along this road;
5. Prior to the issuance of any building permits, the Applicant will provide a letter of intent to serve from a fire/emergency services provider;



## Recommendation (Continued)

6. Prior to the issuance of any land clearing permits, the Applicant will provide a Drainage Report that meets the standards and requirements of the County Highway and Floodplain Department and other applicable State and Federal Laws;
7. The developers shall be required to obtain all other necessary permits and licenses prior to the construction or operation of any use described in the MDP pursuant to local, state, and federal laws and regulations. Any proposed development plan, rezoning or land use that is not deemed to be in substantial conformance with the Madison MDP shall be subject to review by the Planning Department and may require an MDP amendment process;



# Recommendation (Continued)

8. In accordance with Section 1503.05, at least 50% of the gross area of any residential portion of the development shall be retained as open space; at least 10% of the gross area of any non-residential portion of the development shall be retained as open space;
9. Unless allowed by Board of Supervisors action, the Developer shall submit a development plan or subdivision tentative plat for Phase 1 within three years of Board approval, otherwise the Planned Development rezoning may be brought before the Board of Supervisors for revocation;
10. Unless allowed by Board of Supervisors action, the Madison MDP must be fully developed prior to January 1, 2020, otherwise the MDP may be brought before the Board of Supervisors for revocation.



## Recommendation (Continued)

11. All residential and commercial water uses will be required to comply with Section 1820 of the Cochise County Zoning Regulations and Section 412 of the Cochise County Subdivision Regulations; and
12. The Applicant shall provide the County a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the Madison MDP parcels within thirty (30) days of approval from the Board of Supervisors.

**Regular Board of Supervisors Meeting**

**Date:** 09/27/2011

**Amending Section 20 of the Zoning Regulations**

**Submitted By:** Mike Turisk, Community  
Development

**Department:** Community Development

**Division:** Planning

**Presentation:** PowerPoint

**Recommendation:** Approve

**Document Signatures:** BOS Signature Required

**# of ORIGINALS** 1  
**Submitted for Signature:**

**NAME** Michael Turisk  
**of PRESENTER:**

**TITLE** Interim  
**of PRESENTER:** Planning  
Director

**Docket Number (If applicable):**

**Mandated Function?:** Not Mandated

**Source of Mandate**  
**or Basis for Support?:** Regulatory  
relief for  
residents  
impacted  
by  
catastrophic  
event  
declared  
emergency  
by the BOS.

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**Agenda Item Text:**

Adopt Zoning Ordinance 11-10 to approve Docket R-11-03, amending Article 20 and Section 2003 of the Cochise County Zoning Regulations to continue, change or modify non-conforming land uses, lots and structures in order to provide regulatory relief to property owners affected by catastrophic events declared emergencies by the Board, such as the recent Monument and Horseshoe II fires.

**Background:**

**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. However, any lot or parcel of record 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 of the regulations.

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 the Board of Supervisors will consider would allow property owners whose structures 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 eligible for exemption 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 catastrophic events that the BOS declares emergencies, and who wish to repair or rebuild structures deemed non-conforming are eligible for exemption from this requirement.

## III. PLANNING AND ZONING COMMISSION RECOMMENDATION

On September 14, 2011, the Planning and Zoning Commission unanimously (7 – 0) recommended that the Board approve the text amendment as proposed.

## IV. Staff Recommendation

Staff recommends that the Board of Supervisors approve 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, and who wish to repair or rebuild structures deemed legal, non-conforming to be eligible for exemption from this requirement.

### **Department's Next Steps (if approved):**

If the Board of Supervisors approves Docket R-11-03, the County will have language codified in the Zoning Regulations to continue, change or modify non-conforming land uses, lots and structures in order to provide regulatory relief to property owners affected by catastrophic events declared emergencies by the Board.

### **Impact of NOT Approving/Alternatives:**

The County would not provide regulatory relief for property owners impacted by catastrophic events declared emergencies by the Board of Supervisors with respect to non-conforming land uses, lots and structures. Property owners whose non-conforming land uses, lots and structures impacted by catastrophic events, such as fire, explosion, act of God or act of the public enemy, would be subject to all of the Zoning Regulations applicable to the zoning district in which any future use(s) is located.

**To BOS Staff: Document Disposition/Follow-Up:**

If approved, the Zoning Ordinance is to be signed by the Chairman of the Board and the Clerk of the Board. The Chief Civil Deputy will sign the document the week of September 18 and forward it to the Board of Supervisors for the required signatures prior to the September 27 Board meeting.

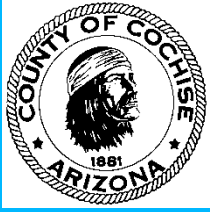
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**Attachments**

R-11-03 Staff Memo

R-11-03 Legal Notice

440\_BOS R-11-03 Catastrophic Events - Non-conforming\_PPT



## **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 Board of Supervisors  
Through Michael Ortega, County Administrator

FROM: Michael Turisk, Interim Planning Director  
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 15, 2011, for the September 27, 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 Board of Supervisors will consider the proposed amendments which are intended to provide regulatory relief to property owners affected by catastrophic events that are declared emergencies by the Board, 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. However, any lot or parcel of record 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 of the regulations.

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 the Board of Supervisors will consider would allow property owners whose structures 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 eligible for exemption 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 catastrophic events that the BOS declares emergencies, and who wish to repair or rebuild structures deemed non-conforming are eligible for exemption from this requirement.**

## **III. PLANNING AND ZONING COMMISSION RECOMMENDATION**

On September 14, 2011, the Planning and Zoning Commission unanimously (7 – 0) recommended that the Board approve the text amendment as proposed.

## **IV. Staff Recommendation**

Staff recommends that the Board of Supervisors approve 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, and who wish to repair or rebuild structures deemed legal, non-conforming to be eligible for exemption from this requirement.

**LEGAL NOTICE  
NOTICE OF PUBLIC HEARING**

The Cochise County Planning and Zoning Commission hereby gives notice that a Public Hearing will be held at or after 4:00 p.m. on Wednesday, September 14, 2011 at 1415 Melody Lane, Building G, Bisbee, Arizona, to consider the following:

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.

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. However, any lot or parcel of record 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 of the regulations.

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 that the Planning and Zoning Commission will consider would allow property owners whose structures were damaged or destroyed by the Monument and Horseshoe II Fires who wish to repair or rebuild structures deemed legal, non-conforming (or which existed prior to January 1, 1975) to be eligible for exemption from this requirement.

Details of the above docket are on file in the office of the Cochise County Planning Department, 1415 Melody Lane, Bisbee, Arizona, Building E, and may be examined during office hours (Monday through Friday, 8 a.m. to 5 p.m.). The proposed regulation changes can be viewed on the County Website at [www.cochise.az.gov](http://www.cochise.az.gov); click on Departments and scroll down to Planning and Zoning; on the left side menu click on Proposed Updates and view the draft regulations. Questions or comments may be directed to Interim Planning Director at 520-432-9240, or at [mturisk@cochise.az.gov](mailto:mturisk@cochise.az.gov). All persons interested in said matter may appear at said public hearing at said time and place and show cause, if any they have, why said amendments should or should not be approved.

If the Commission makes a recommendation, the docket will be heard in a public hearing before the Board of Supervisors on Tuesday, September 27, 2011 at or after 10:00 a.m. at 1415 Melody Lane, Building G, in Bisbee, Arizona.

Dated this 17th Day of August, 2011

Jim Lynch, Chairman, Cochise County Planning and Zoning Commission

Publish: Bisbee Observer

Publish: No later than August 24, 2011





# **R-11-03**

## **Zoning Regulation Amendment**

### **Continuation, Changes, or Modifications to Non-conformances for Catastrophic Events**

Board of Supervisors

September 27, 2011



# Background

## Per Article 20:

- ✓ **Non-conforming 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.**



# Background

## Furthermore:

- ✓ 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.



# Proposed Revision

**Would allow property owners whose structure(s) were damaged or destroyed by catastrophic events that the BOS declares emergencies and who wish to repair or rebuild structures deemed legal, non-conforming (or which existed prior to January 1, 1975) to be exempt from compliance with current standards.**



# Proposed Amendment - Article 20

## 2003.03 Discontinuance of Nonconforming Uses

- 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.*"





# **Planning and Zoning Commission Recommendation**

**On September 14, the Planning and Zoning Commission unanimously (7 – 0) recommended that the Board approve the text amendment as proposed.**



# Recommendation

**Staff recommends that the Board of Supervisors approve the proposed zoning regulation text amendment.**

**Regular Board of Supervisors Meeting**

**Date:** 09/27/2011

**Building Safety Code Owner-Builder Amendment to include a provision for catastrophic events**

**Submitted By:** Mike Turisk, Community  
Development

**Department:** Community Development

**Division:** Planning

**Presentation:** PowerPoint

**Recommendation:** Approve

**Document Signatures:** BOS Signature Required

**# of ORIGINALS  
Submitted for Signature:** 1

**NAME  
of PRESENTER:** Michael Turisk

**TITLE  
of PRESENTER:** Interim  
Planning  
Director

**Docket Number (If applicable):**

**Mandated Function?:** Not Mandated

**Source of Mandate  
or Basis for Support?:** Provide  
regulatory  
relief for  
residents  
impacted by  
catastrophic  
events  
declared  
emergencies  
by the BOS.

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**Agenda Item Text:**

Adopt Zoning Ordinance 11-11 to approve Docket R-11-04, amending the existing Cochise County Building Safety Code Owner-Builder Amendment Option, and to Section 508 of the Cochise County Zoning Regulations allowing property owners whose structures were damaged or destroyed by catastrophic events that the Board of Supervisors declares an emergency, and who wish to repair or rebuild on properties less than four acres to qualify for this option.

**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. PLANNING AND ZONING COMMISSION RECOMMENDATION

On September 14, 2011, the Planning and Zoning Commission unanimously (7 – 0) recommended that the Board approve the text amendment as proposed.

#### IV. STAFF RECOMMENDATION

Staff recommends that the Board of Supervisors approve the proposed zoning regulation text amendment which would allow property owners whose structures are damaged or destroyed by catastrophic events to qualify for the Owner-builder Residential Opt Out to repair or rebuild on properties less than four acres in size.

#### **Department's Next Steps (if approved):**

If the Board of Supervisors approves Docket R-11-04, the County will have language codified in the Zoning Regulations which would allow property owners whose structures are damaged or destroyed by catastrophic events to qualify for the Owner-builder Residential Opt Out to repair or rebuild on properties less than four acres in size.

#### **Impact of NOT Approving/Alternatives:**

The County would not provide regulatory relief for property owners impacted by catastrophic events declared emergencies by the Board of Supervisors by disallowing property owners whose structures are damaged or destroyed by catastrophic events to qualify for the Owner-builder Residential Opt Out to repair or rebuild on properties less than four acres in size.

#### **To BOS Staff: Document Disposition/Follow-Up:**

If approved, the Zoning Ordinance is to be signed by the Chairman of the Board and the Clerk of the Board. The Chief Civil Deputy will sign the document the week of September 18 and forward it to the Board of Supervisors for the required signatures prior to the September 27 Board meeting.

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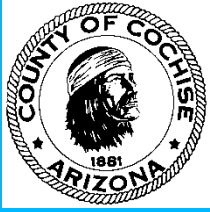
#### **Attachments**

R-11-04 Staff Memo

R-11-04 Legal Notice







## **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 Board of Supervisors  
Through Michael Ortega, County Administrator

FROM: Michael Turisk, Interim Planning Director  
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 15, 2011, for the September 27, 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 Board of Supervisors will consider the proposed amendments which are intended to provide regulatory relief to property owners affected by catastrophic events that are declared emergencies by the Board.

#### **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. PLANNING AND ZONING COMMISSION RECOMMENDATION**

On September 14, 2011, the Planning and Zoning Commission unanimously (7 – 0) recommended that the Board approve the text amendment as proposed.

## **IV. STAFF RECOMMENDATION**

Staff recommends that the Board of Supervisors approve the proposed zoning regulation text amendment which would allow property owners whose structures are damaged or destroyed by catastrophic events to qualify for the Owner-builder Residential Opt Out to repair or rebuild on properties less than four acres in size.

**LEGAL NOTICE  
NOTICE OF PUBLIC HEARING**

The Cochise County Planning and Zoning Commission hereby gives notice that a Public Hearing will be held at or after 4:00 p.m. on Wednesday, September 14, 2011 at 1415 Melody Lane, Building G, Bisbee, Arizona, to consider the following:

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.

The purpose of the Owner-Builder Option 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 the Monument and Horseshoe II Fires who wish to repair or rebuild on properties less than four acres to qualify for this option.

Details of the above docket are on file in the office of the Cochise County Planning Department, 1415 Melody Lane, Bisbee, Arizona, Building E, and may be examined during office hours (Monday through Friday, 8 a.m. to 5 p.m.). The proposed regulation changes can be viewed on the County Website at [www.cochise.az.gov](http://www.cochise.az.gov); click on Departments and scroll down to Planning and Zoning; on the left side menu click on Proposed Updates and view the draft regulations. Questions or comments may be directed to Interim Planning Director at 520-432-9240, or at [mturisk@cochise.az.gov](mailto:mturisk@cochise.az.gov). All persons interested in said matter may appear at said public hearing at said time and place and show cause, if any they have, why said amendments should or should not be approved.

If the Commission makes a recommendation, the docket will be heard in a public hearing before the Board of Supervisors on Tuesday, September 27, 2011 at or after 10:00 a.m. at 1415 Melody Lane, Building G, in Bisbee, Arizona.

Dated this 17th Day of August, 2011  
Jim Lynch, Chairman, Cochise County Planning and Zoning Commission  
Publish: Bisbee Observer  
Publish: No later than August 24, 2011



# **R-11-04**

## **Zoning Regulation Amendment**

# **Building Safety Code Owner-Builder Amendment for Catastrophic Events**

Board of Supervisors

September 14, 2011



# Background

- ✓ 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 the option to comply with the Building Safety Code, but limit inspections.
- ✓ May also opt for compliance with the Building Safety Code accompanied by full inspections.





# Proposed Amendment Revision

**Would allow 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 to qualify for residential opt out.**



# Proposed Language – Section 508

## Section 508

*"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."*



# **Planning and Zoning Commission Recommendation**

**On September 14, the Planning and Zoning Commission unanimously (7 – 0) recommended that the Board approve the text amendment as proposed.**



# Recommendation

**Staff recommends that the Board of Supervisors approve the proposed zoning regulation text amendment.**

**Regular Board of Supervisors Meeting**

**Date:** 09/27/2011

**Non-conforming site development standards and rezonings**

**Submitted By:** Mike Turisk, Community  
Development

**Department:** Community Development

**Division:** Planning

**Presentation:** PowerPoint

**Recommendation:** Approve

**Document Signatures:** BOS Signature Required

**# of ORIGINALS** 1  
**Submitted for Signature:**

**NAME** Michael Turisk  
**of PRESENTER:**

**TITLE** Interim  
**of PRESENTER:** Planning  
Director

**Docket Number (If applicable):**

**Mandated Function?:** Not Mandated

**Source of Mandate** Streamline  
**or Basis for Support?:** rezoning  
process

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**Agenda Item Text:**

Adopt Zoning Ordinance 11-12 to approve Docket R-11-05, codifying 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.

**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 effects 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-feet 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. PLANNING AND ZONING COMMISSION RECOMMENDATION

On September 14, 2011, the Planning and Zoning Commission unanimously (7 – 0) recommended that the Board approve the text amendment as proposed.

### IV. Staff Recommendation

Staff recommends that the Board of Supervisors approve the proposed zoning regulation text amendment which would codify the authority of the Board to determine site development standards that are rendered non-conforming as a result of r

#### **Department's Next Steps (if approved):**

If the Board of Supervisors approves Docket R-11-05, the County will have language codified in the Zoning Regulations speaking to the Board of Supervisors' authority to determine site development standards that are rendered non-conforming as a result of rezoning action.

#### **Impact of NOT Approving/Alternatives:**

The County would not provide a more streamlined process for those existing uses or structures rendered non-conforming as a result of a rezoning action due to different site development standards. Applying the site development standards for the new zoning district has been default practice, which has occasionally resulted in the need for the Applicant to apply for Variances to their respective Board of Adjustment.

#### **To BOS Staff: Document Disposition/Follow-Up:**

If approved, the Zoning Ordinance is to be signed by the Chairman of the Board and the Clerk of the Board. The Chief Civil Deputy will sign the document the week of September 18 and forward it to the Board of Supervisors for the required signatures prior to the September 27 Board meeting.

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### **Attachments**

R-11-05 Staff Memo

R-11-05 Legal Notice

442\_BOS R-11-05 Rezoning;Non-conformances\_PPT



## **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  
For: Carlos De La Torre, P.E., Community Development Director

**SUBJECT:** Docket R-11-05 (Non-conforming S<sub>ite</sub> D<sub>evelopment</sub> S<sub>t</sub>andards and Rezonings)

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

**TO:** Cochise County Board of Supervisors  
Through Michael Ortega, County Administrator

**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 15, 2011, for the September 27, 2011 Meeting

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

#### **ZONING REGULATION AMENDMENTS: NON-CONFORMING SITE DEVELOPMENT STANDARDS AND REZONINGS**

**Docket R-11-05:** A request from staff to codify the Board of Supervisors' authority to determinemodify site development standards 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, The Board currently holds this authority is implied in our Zoning Regulations; however, this Docket is intended to formalize"legitimize" this authority in our Zoning Regulations by making it explicit.

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## **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~~effects 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~~modifying that the site development standard for R-18 property applies, thus allowing the existing to allow the “new” 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~~grant site development standard ~~applies~~modifications 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:**

### **PROPOSED TEXT AMENDMENTS**

#### **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.** ~~Site development standards rendered non-conforming as a result of rezoning action may be modified by the Board of Supervisors at the public hearing for the rezoning.~~

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### III. PLANNING AND ZONING COMMISSION RECOMMENDATION

On September 14, 2011, the Planning and Zoning Commission unanimously (7 – 0) recommended that the Board approve the text amendment as proposed.

#### IV. Staff Recommendation

#### 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 modify site development standards that are rendered non-conforming as a result of rezoning action, to the Board of Supervisors with a recommendation of approval.~~

Staff recommends that the Board of Supervisors approve the proposed zoning regulation text amendment which would codify the authority of the Board to determine site development standards that are rendered non-conforming as a result of rezoning action. IV. ATTACHMENTS

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**LEGAL NOTICE  
NOTICE OF PUBLIC HEARING**

The Cochise County Planning and Zoning Commission hereby gives notice that a Public Hearing will be held at or after 4:00 p.m. on Wednesday, September 14, 2011 at 1415 Melody Lane, Building G, Bisbee, Arizona, to consider the following:

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.

Details of the above docket are on file in the office of the Cochise County Planning Department, 1415 Melody Lane, Bisbee, Arizona, Building E, and may be examined during office hours (Monday through Friday, 8 a.m. to 5 p.m.). The proposed regulation changes can be viewed on the County Website at [www.cochise.az.gov](http://www.cochise.az.gov); click on Departments and scroll down to Planning and Zoning; on the left side menu click on Proposed Updates and view the draft regulations. Questions or comments may be directed to Interim Planning Director at 520-432-9240, or at [mturisk@cochise.az.gov](mailto:mturisk@cochise.az.gov). All persons interested in said matter may appear at said public hearing at said time and place and show cause, if any they have, why said amendments should or should not be approved.

If the Commission makes a recommendation, the docket will be heard in a public hearing before the Board of Supervisors on Tuesday, September 27, 2011 at or after 10:00 a.m. at 1415 Melody Lane, Building G, in Bisbee, Arizona.

Dated this 17th Day of August, 2011

Jim Lynch, Chairman, Cochise County Planning and Zoning Commission

Publish: Bisbee Observer

Publish: No later than August 24, 2011





# **R-11-05**

## **Zoning Regulation Amendment**

# **Non-conforming Site Development Standards & Rezoning**

Board of Supervisors

September 14, 2011



# Background

- Particular rezoning actions have rendered certain site development standards non-conforming, particularly minimum setbacks.
- Our zoning regulations currently do not directly address the affects of non-conformances that result from rezonings.
- Default practice has been to apply the site development standards for the new zoning district, which has 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.



# Proposed Amendment to Article 22

## 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.*"



# **Planning and Zoning Commission Recommendation**

**On September 14, the Planning and Zoning Commission unanimously (7 – 0) recommended that the Board approve the text amendment as proposed.**





# Recommendation

**Staff recommends that the Board of Supervisors approve the proposed zoning regulation text amendment.**

**Regular Board of Supervisors Meeting**

**Date:** 09/27/2011

**Adopt Resolution 11-\_\_\_ supporting the Land Exchange or 11-\_\_\_ not supporting**

**Submitted By:** Gussie Motter, Board of Supervisors

**Department:** Board of Supervisors

**Presentation:** No A/V Presentation

**Document Signatures:**

**NAME** Jim Vlahovich  
**of PRESENTER:**

**Recommendation:**

**# of ORIGINALS**

**Submitted for Signature:**

**TITLE** Deputy  
**of PRESENTER:** County  
Administrator

**Mandated Function?:**

**Source of Mandate  
or Basis for Support?:**

---

**Agenda Item Text:**

Adopt Resolution 11-\_\_\_ supporting the Brophy Land Exchange or Resolution 11-\_\_\_ not supporting the Brophy Land Exchange.

**Background:**

Stephen M. Brophy wrote a letter to Supervisor Richard Searle outlining the proposed land exchange with the Forest Service. This information (see attached exhibit A) was turned over to the PLAC for comment. PLAC decided against support for the land exchange as it is counter to the National Environmental Plan Act (NEPA) policies just incorporated into Cochise County Comprehensive Plan. There was agreement that this exchange would not result in a huge loss for the County but reluctance to go against the newly adopted policies the first time they were factored into a decision. Four members voted against and 1 member abstained as she was not a member when the policies were adopted.

**Department's Next Steps (if approved):**

Communicate the decision to Mr. Brophy

**Impact of NOT Approving/Alternatives:**

According to the policy, a private property owner has the right to exchange his or her property as seen fit within applicable laws.

**To BOS Staff: Document Disposition/Follow-Up:**

Send Resolution copy to Mr. Brophy.

---

**Attachments**

Land Exchanges Policy  
Exhibit A - Brophy Letter  
Resolution supporting  
Resolution not supporting

3. Roads covered by RS 2477 should remain open and the County will take any action needed to protect these rights. This includes identification, inventory, and participation in any legal process to protect them.
4. Access to all water-related facilities such as delivery systems, monitoring facilities, livestock water and handling facilities, etc., must be maintained. Access routes must be adequately maintained by the owner of that route. Unreasonable restrictions may result in the loss of use of such facilities and property rights.

*E. Land Exchanges, Acquisitions and Sales*

1. The State and Federal Governments hold a sufficient amount of land to protect public interest, so there shall be no net loss of private land base.
2. Any affected district within the County must be compensated for any net loss of private lands with public lands of equal value or compensated for any loss of assessed valuation resulting from these exchanges by the appropriate acquiring agency.
3. A private property owner has a right to dispose of or exchange his property as he/she sees fit within applicable law.

*F. Recreation and Tourism*

1. The County has outstanding potential for recreation and tourism.
2. Resource development, recreation, and tourism are compatible through proper planning and management.
3. Potential developments should include family-oriented activities and developments that are accessible to the general public and not limited to special interest groups.
4. It supports cultivating recreational facility development and maintenance partnerships with other entities, agencies, and general special interest groups.

*G. Wildlife*

1. Properly managed wildlife populations are important to the recreation and tourism economy and to the preservation of the culture and lifestyles of its residents.
2. With proper management and planning, healthy wildlife populations are compatible with other resource development.
3. No increases in wildlife numbers or the introduction of additional species may be made until the availability of forage or habitat has been determined and the impacts on other wildlife species have been assessed.

**PAGE LAND & CATTLE CO.**

ESTABLISHED 1910

10265 WEST CAMELBACK RD., NO. 104

PHOENIX, ARIZONA 85037

(623) 772-8111

FAX (623) 772-0145

**STEPHEN M. BROPHY**  
PRESIDENT

August 15, 2011

Mr. Richard Searle  
Supervisor – Cochise County  
District 3  
Bisbee, Arizona

By Email To:  
rsearle@cochise.az.gov

Re: Camp Tatiyee Land Exchange

Dear Mr. Searle:

In accordance with our phone conversation today, I am enclosing with this letter copies of maps showing private land in Cochise County that is held in a Lawyers Title Insurance Company trust and is involved in a proposed land exchange with the Forest Service.

The land in Cochise County in question consists of:

- 239 acres on the east side of the Rincon Mountains
- 320 acres in Rucker Canyon upstream from the Winkler's ranch on the west side of the Chiricahua Mountains
- 1.1 acres in the East Stronghold in the Dragoon Mountains

All of the land is within the boundaries of the Coronado National Forest and is part of a land exchange our firm has been working on for the Lions Foundation of Arizona since 1996.

In about 1995, the Forest Service advised the Lions Foundation that the Lions organization's lease on a camp the White Mountains in Pinetop-Lakeside for handicapped children (Camp Tatiyee) might not be renewed unless the Lions undertook to acquire the Camp by means of a land exchange with the Forest Service.

Taking serious heed of that, the Lions Foundation agreed to fund and pursue a Forest Service exchange for that purpose, and asked our firm to manage the process. In the years since it began, we have seen Forest Service land exchange policies



Supervisor Richard Searle  
Page 2

shift dramatically, and for the worse, in endless requirements changes, always more stringent, and, more important, in the shifting of costs to the Lions Foundation for exchange environmental analysis, appraisals, archaeological studies, analyses of threatened and endangered species and even, in this exchange, an environmental impact statement.

Over the time these delays entailed, land values near Lakeside have risen significantly, requiring that the Lions Foundation increase, well beyond their organic means, the amount of land to be offered to Forest Service to equalize values in the exchange.

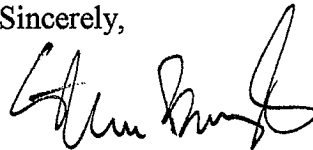
The net effect, from the Lions Foundation standpoint, is that over the past 15 years this effort has paid for hundreds of thousands of dollars in non-reimbursable environmental studies to meet F.S. exchange requirements, and spent millions of dollars of capital in purchases of land to offer to the Forest Service to save Camp Tatiyee.

The reason I contacted you is that, just last week, we were advised by the Forest Service of Cochise County's recent adoption of "Policies Regarding Federal Government Lands". In particular, if that part of Cochise County's policy regarding Federal land exchanges is enforced by the County on the Lions' Camp Tatiyee exchange, the exchange itself, and the years of effort and expense by the Lions organization to accomplish it, will be lost.

For the reasons briefly described above, we respectfully request the consideration of an exception to the policy in regard to the Camp Tatiyee exchange from Cochise County.

I apologize for the quality of the maps attached to this letter. We don't have a color scanner, but at your request we can send you hard copies in color. I would be glad to appear in front of the Board of Supervisors, or any other group you designate, if that would help in your consideration of this, and I thank you for your return of my call this morning.

Sincerely,



Stephen M. Brophy

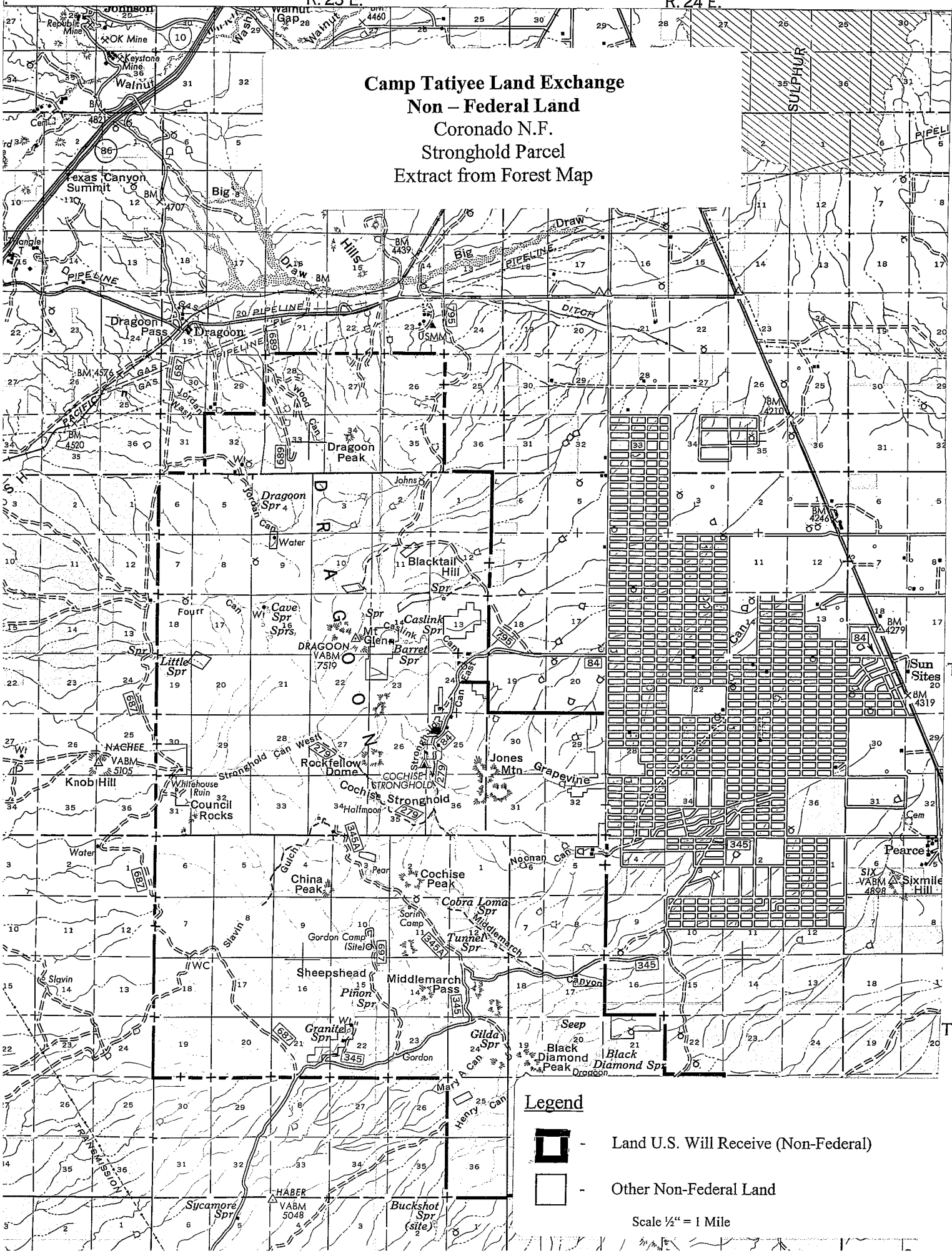
SMB:gm  
Enclosures



R. 23 E.

R. 24 E.

**Camp Tatiyee Land Exchange**  
**Non - Federal Land**  
 Coronado N.F.  
 Stronghold Parcel  
 Extract from Forest Map



T. 16 S.

T. 17 S.

T. 18 S.

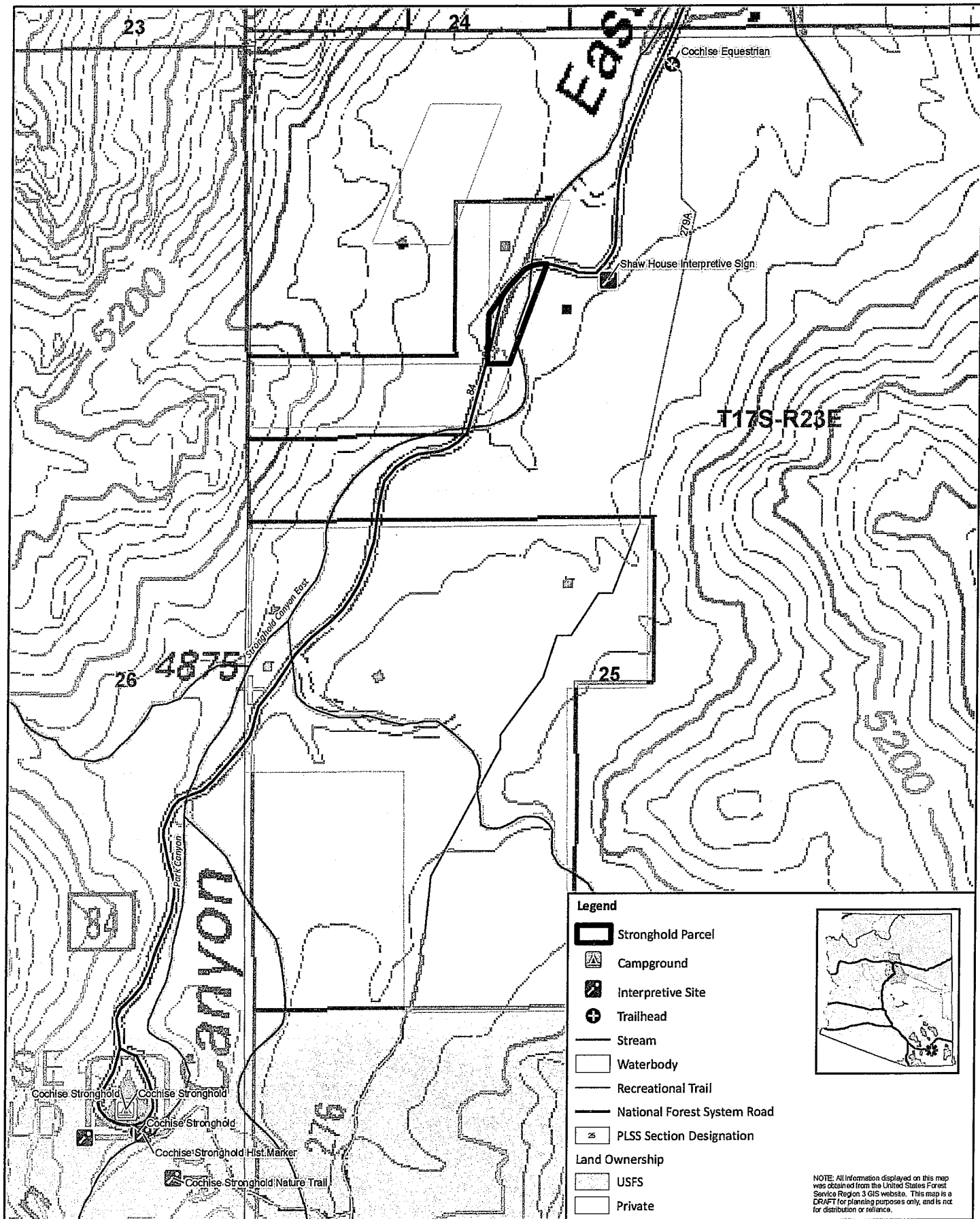
**Legend**

- Land U.S. Will Receive (Non-Federal)



- Other Non-Federal Land

Scale 1/2" = 1 Mile

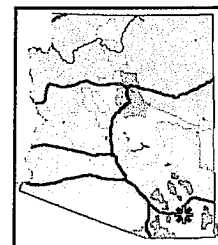


#### Legend

- Stronghold Parcel
- Campground
- Interpretive Site
- Trailhead
- Stream
- Waterbody
- Recreational Trail
- National Forest System Road
- PLSS Section Designation

#### Land Ownership

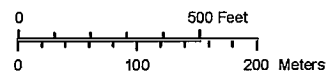
- USFS
- Private



NOTE: All information displayed on this map was obtained from the United States Forest Service Region 3 GIS website. This map is a DRAFT for planning purposes only, and is not for distribution or reliance.



**Stronghold Parcel:**  
**To be Transferred to the U.S. Forest Service,**  
**Coronado National Forest**

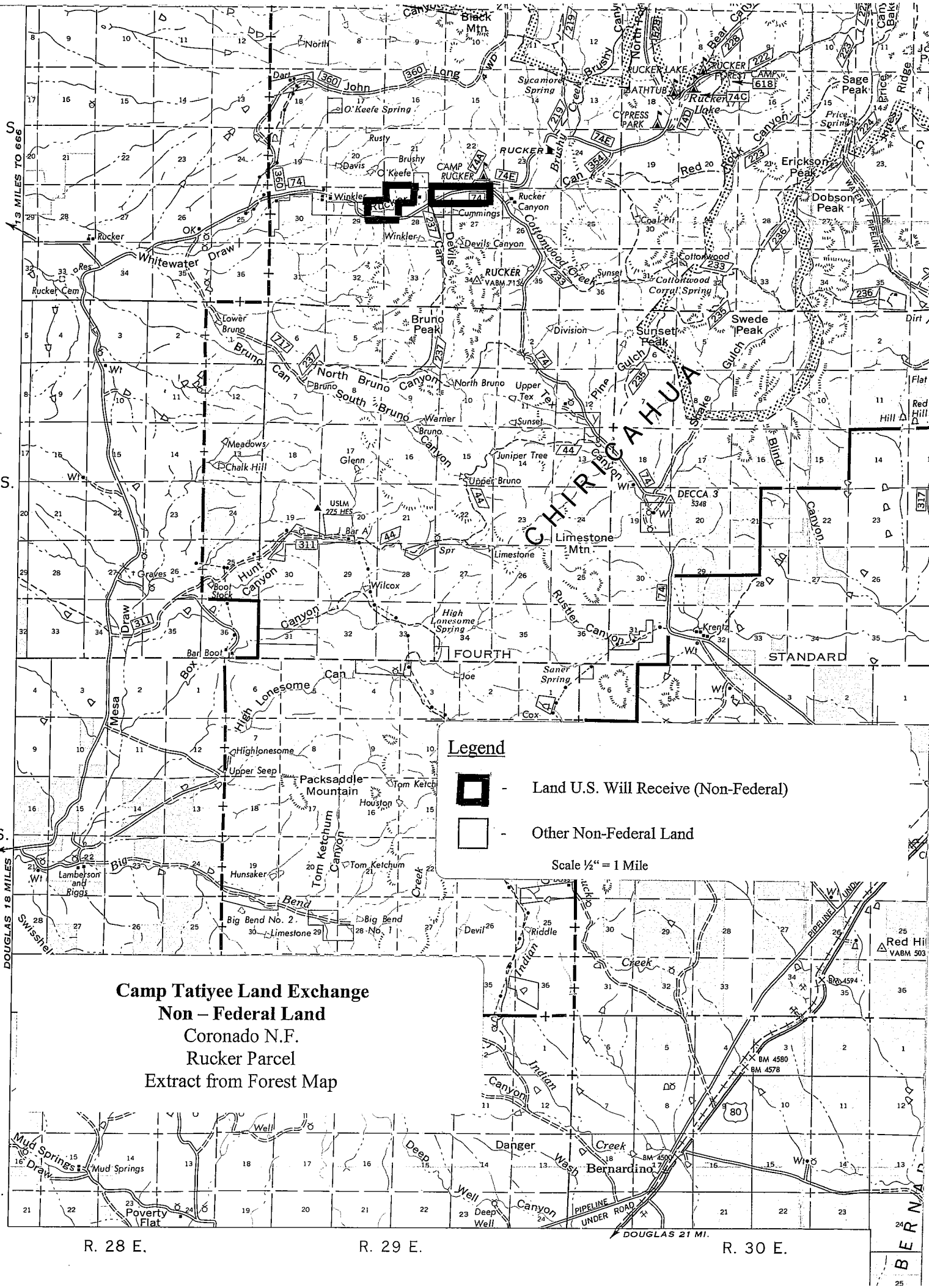


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T. 20 S.  
T. 21 S.  
T. 22 S.

R. 28 E.

R. 29 E.

R. 30 E.



**Legend**

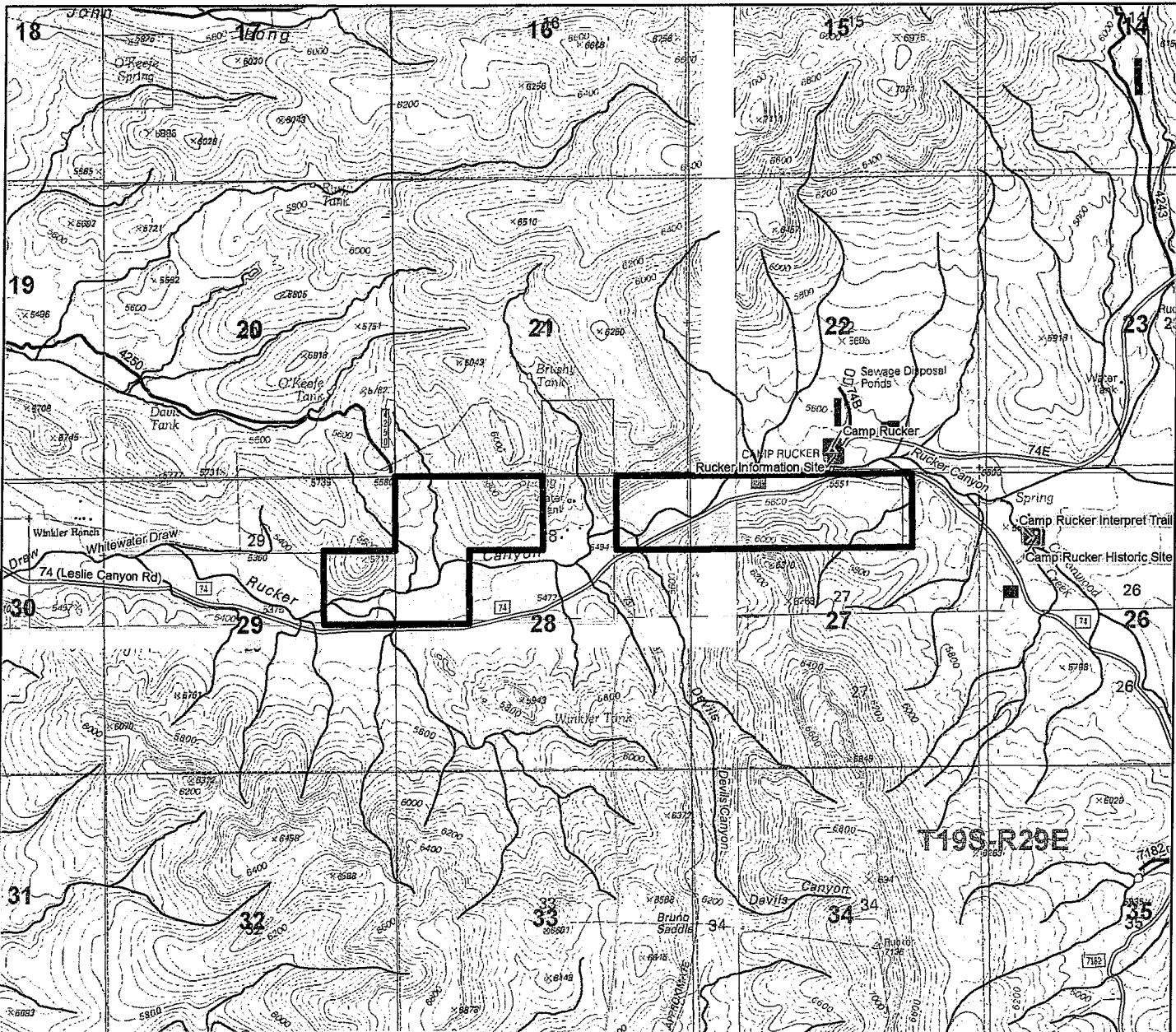


- Land U.S. Will Receive (Non-Federal)

- Other Non-Federal Land

Scale 1/2" = 1 Mile

**Camp Tatiye Land Exchange**  
**Non - Federal Land**  
**Coronado N.F.**  
**Rucker Parcel**  
**Extract from Forest Map**



**Legend**

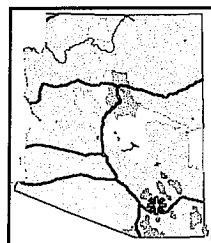
- Rucker Parcel
- Campground
- Interpretive Site
- Stream
- Waterbody
- Recreational Trails
- Designated Scenic Drive
- National Forest System Road

**Land Ownership**

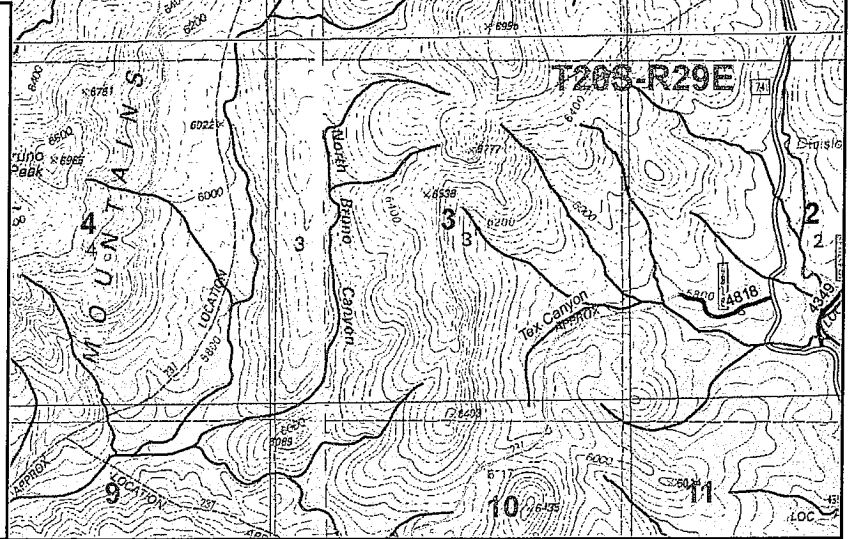
- USFS
- Private

**PLSS Land Designation**

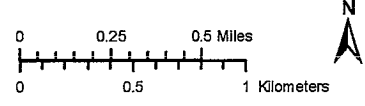
- Sections
- Townships



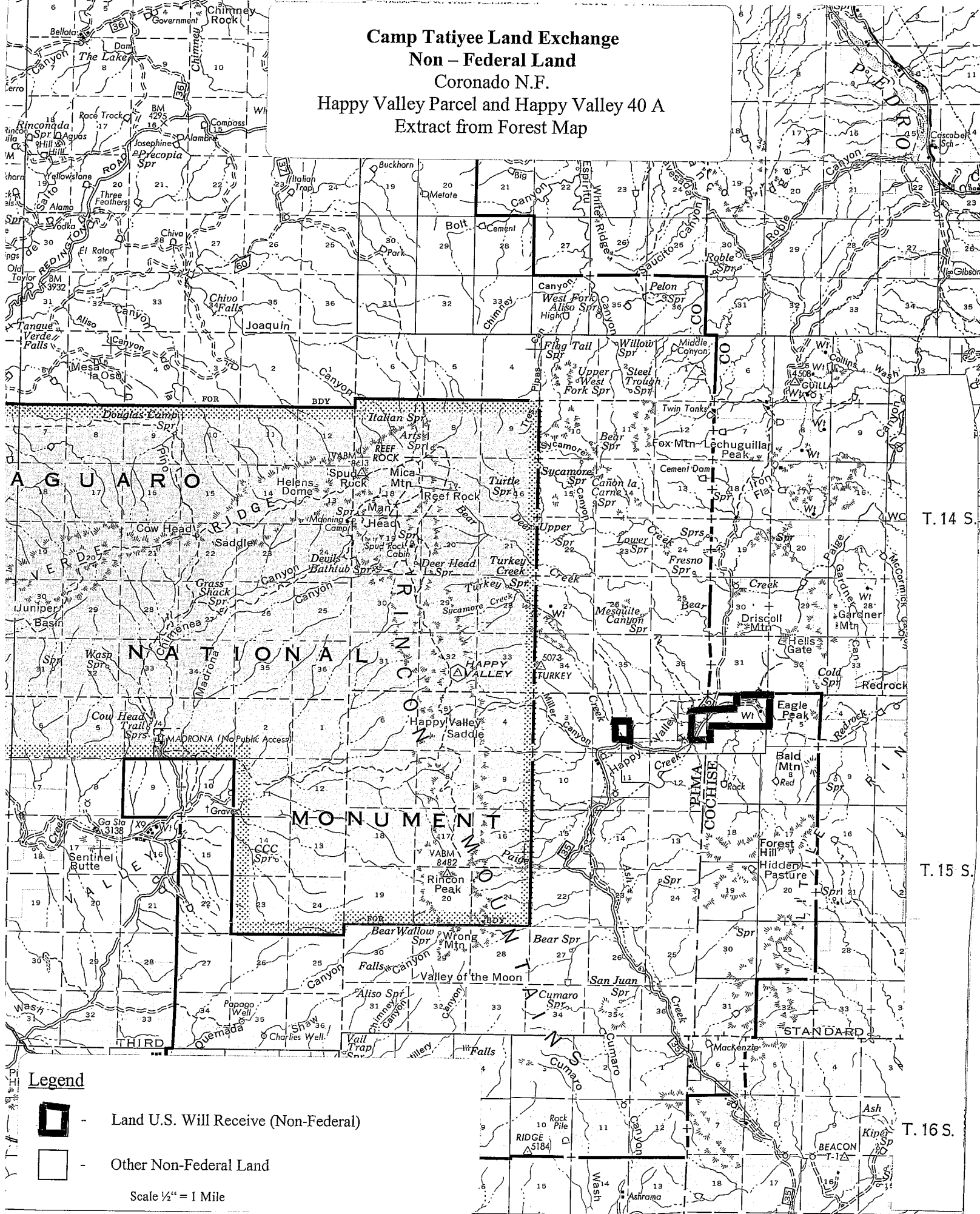
NOTE: All information displayed on this map was obtained from the United States Forest Service Region 3 GIS website. This map is a DRAFT for planning purposes only, and is not for distribution or reliance.



**Rucker Parcels:**  
**To be Transferred to the U.S. Forest Service,**  
**Coronado National Forest**



**Camp Tatiyee Land Exchange**  
**Non - Federal Land**  
 Coronado N.F.  
 Happy Valley Parcel and Happy Valley 40 A  
 Extract from Forest Map



**Legend**

-  - Land U.S. Will Receive (Non-Federal)
-  - Other Non-Federal Land

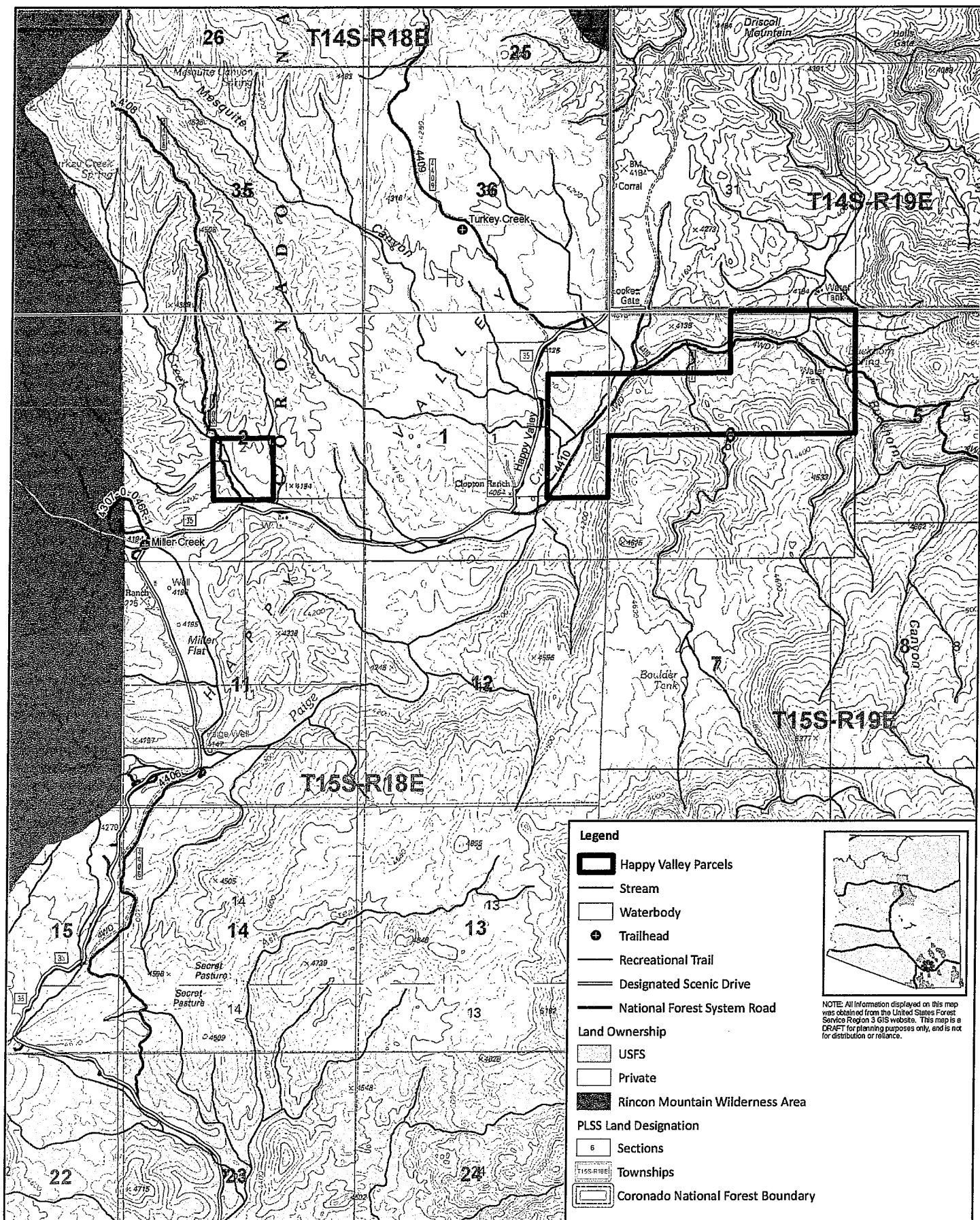
Scale 1/2" = 1 Mile

R. 17 E.

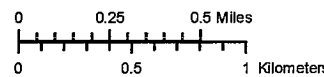
R. 18 E.

R. 19 E.





## Happy Valley Parcels: To be Transferred to the U.S. Forest Service, Coronado National Forest



## **RESOLUTION 11-**

### **SUPPORTING A PROPOSED EXCHANGE OF PRIVATE LAND TO THE UNITED STATES FOREST SERVICE**

**WHEREAS**, Stephen M. Brophy of Page Land & Cattle Co. is assisting the Lions Foundation of Arizona in securing property rights from the United States Forest Service in a proposed land exchange for certain Forest Service property located in Pinetop-Lakeside known as Camp Tatiyee; and in order to secure such rights for the Forest Service property, the private property (the "Property") offered to the Forest Service in the exchange, some of which is located in Cochise County and described on the letter attached hereto, has been conveyed to a title insurance company trust for purposes of effectuating the proposed land exchange with the Forest Service; and

**WHEREAS**, the Board of Supervisors enacted a policy dealing with federal lands, which provides in Subsection 2.E: "Any affected district within the County must be compensated for any net loss of private lands with public lands of equal value or compensated for any loss of assessed valuation resulting from these exchanges by the appropriate acquiring agency", and "A private property owner has a right to dispose of or exchange his property as he/she sees fit within applicable law";

**WHEREAS**, the exchange proposed by Mr. Brophy would result in a net loss of private lands and assessed valuation in Cochise County; and,

**WHEREAS**, the Public Lands Advisory Committee voted 4 to 1 to not support the exchange, on grounds that the exchange would be inconsistent with the County's federal lands policy; and,

**WHEREAS**, the Board of Supervisors, while acknowledging the reasoning of the Public Lands Advisory Committee, finds that the right of a private property owner to dispose of or exchange his property as he sees fit is paramount.

**NOW, THEREFORE, BE IT RESOLVED**, that the Cochise County Board of Supervisors hereby declares that it supports the proposed exchange as set forth in Exhibit A hereto and directs the County Administrator to forward a copy of this Resolution to Mr. Brophy and the United States Forest Service.

**PASSED AND ADOPTED** by the Cochise County Board of Supervisors this  
\_\_\_\_\_ day of \_\_\_\_\_ 2011.

---

Patrick G. Call, Chairman  
Cochise County Board of Supervisors

**ATTEST:**

**APPROVED AS TO FORM:**

---

Katie A. Howard,  
Clerk of the Board  
Attorney

---

Britt Hanson  
Chief   Civil   Deputy   County

## **RESOLUTION 11-**

### **NOT SUPPORTING AN EXCHANGE OF PRIVATE LAND TO THE UNITED STATES FOREST SERVICE**

**WHEREAS**, Stephen M. Brophy of Page Land & Cattle Co. is assisting the Lions Foundation of Arizona in securing property rights from the United States Forest Service in a proposed land exchange for certain Forest Service property located in Pinetop-Lakeside known as Camp Tatiyee; and in order to secure such rights for the Forest Service property, the private property (the "Property") offered to the Forest Service in the exchange, some of which is located in Cochise County and described on the letter attached hereto, has been conveyed to a title insurance company trust for purposes of effectuating the proposed land exchange with the Forest Service; and

**WHEREAS**, the Board of Supervisors enacted a policy dealing with federal lands, which provides in Subsection 2.E: "Any affected district within the County must be compensated for any net loss of private lands with public lands of equal value or compensated for any loss of assessed valuation resulting from these exchanges by the appropriate acquiring agency", and "A private property owner has a right to dispose of or exchange his property as he/she sees fit within applicable law"; and,

**WHEREAS**, the exchange proposed by Mr. Brophy would result in a net loss of private lands and assessed valuation in Cochise County; and,

**WHEREAS**, the Public Lands Advisory exchange proposed by Mr. Brophy would result in a net loss of private lands and assessed valuation in Cochise County.

**NOW, THEREFORE, BE IT RESOLVED**, that the Cochise County Board of Supervisors hereby declares that it does not support the proposed exchange as set forth in Exhibit A hereto and directs the County Administrator to forward a copy of this Resolution to Mr. Brophy and the United States Forest Service.

**PASSED AND ADOPTED** by the Cochise County Board of Supervisors this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

---

Patrick G. Call, Chairman  
Cochise County Board of Supervisors

**ATTEST:**

---

Katie A. Howard,  
Clerk of the Board  
Attorney

**APPROVED AS TO FORM:**

---

Britt Hanson  
Chief   Civil   Deputy   County