



Cochise County
Community Development
 Planning, Zoning and Building Safety Division

Public Programs...Personal Service
 www.cochise.az.gov

MEMORANDUM

TO: Cochise County Planning and Zoning Commission
THROUGH: Ed Gilligan, County Administrator
FROM: Peter Gardner, Planner I
FOR: Jerry Stabley, AICP, Interim Planning Director
SUBJECT: Docket Z-17-01 (Bussius)
DATE: April 24, 2017 for the May 10, 2017 Meeting

APPLICATION FOR A REZONING

The Applicant is requesting a rezoning from RU-2 (Rural; one dwelling per 2 acres) to RU-4 (Rural; one dwelling per 4 acres). The subject parcel is 5 acres in size. The request is to facilitate the use of the Owner-Builder Opt-Out Amendment.

The subject parcel, APN 404-02-379, is located on N. Zuni Ave, east of McNeal. The Applicant is Michael Bussius.

PLANNING AND ZONING COMMISSION

On Wednesday, May 10, 2017, the Planning and Zoning Commission voted 7-0 to forward this Docket to the Board of Supervisors with a recommendation of approval. The motion included the conditions of approval recommended by staff. No objections were received from any member of the public, therefore the Board does not need to hold a public hearing.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size:	5.00 acres
Current Zoning:	RU02 (Rural; one dwelling per 2 acres)
Proposed Zoning:	RU-4 (Rural; one dwelling per 4 acres)
Growth Area:	D – Rural Area
Plan Designation:	Rural
Area Plan:	None
Existing Uses:	None
Proposed Uses:	Single Family Residential

Planning, Zoning and Building Safety
 1415 Melody Lane, Building E
 Bisbee, Arizona 85603
 520-432-9300
 520-432-9278 fax
 1-877-777-7958
 planningandzoning@cochise.az.gov

Highway and Floodplain
 1415 Melody Lane, Building F
 Bisbee, Arizona 85603
 520-432-9300
 520-432-9337 fax
 1-800-752-3745
 highway@cochise.az.gov
 floodplain@cochise.az.gov

Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-2	Vacant
South	RU-2	Vacant
East	Non-Maintained Road /RU-2	N. Zuni Ave/Vacant
West	RU-2	Vacant

II. PARCEL HISTORY

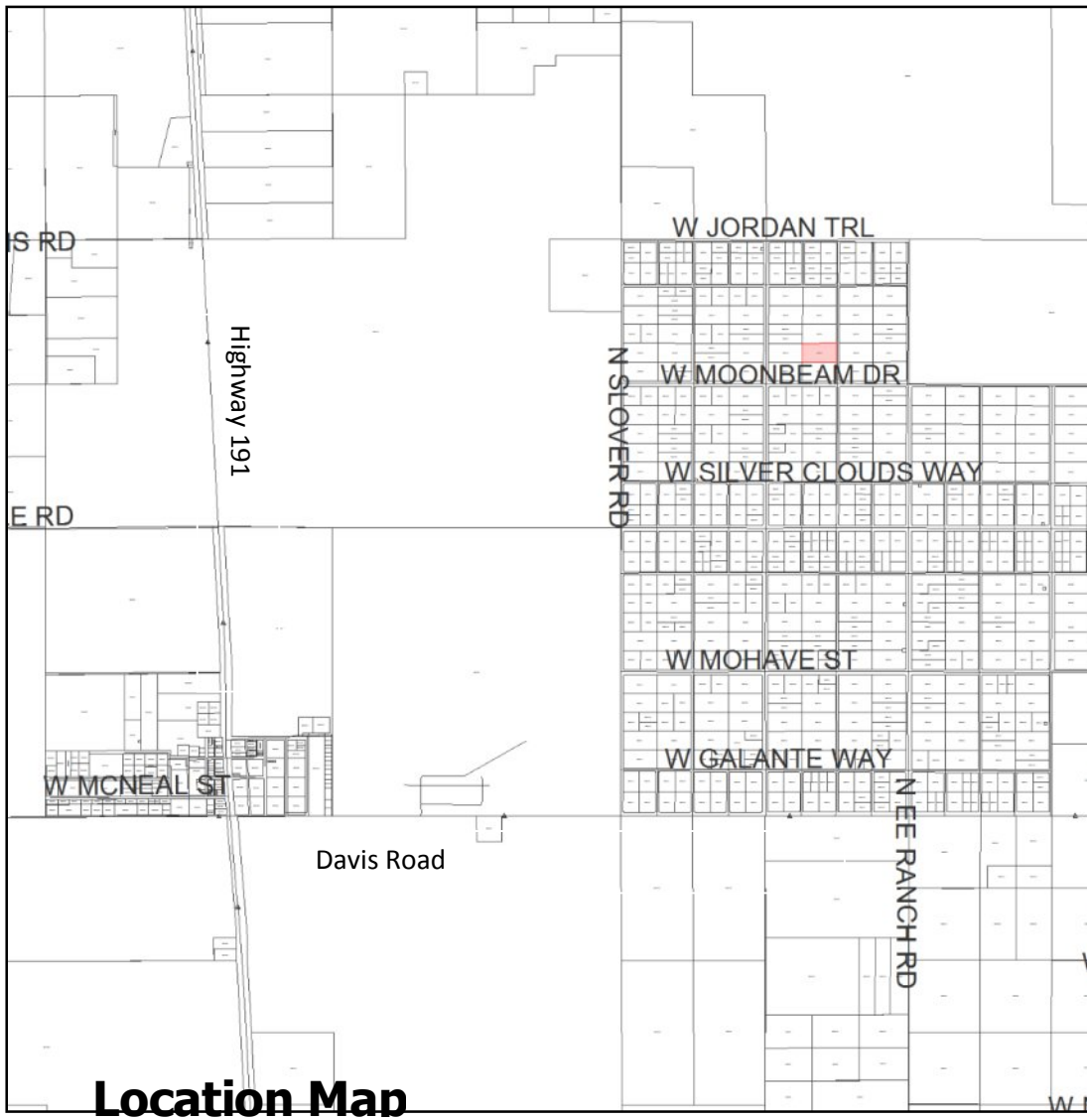
1971 – Desert Sky Subdivision Platted

1975 – Zoning Established

III. NATURE OF REQUEST

The Applicant is requesting to amend the zoning of his five-acre parcel in the Desert Sky Subdivision from RU-2 to RU-4. This will permit the use of the Owner-Builder Opt Out Amendment to the Cochise County Building Code.

The Desert Sky Subdivision was platted in 1971, four years prior to the adoption of Zoning in 1975. As platted, the lot sizes are either 2.6 acres or 5 acres, causing the subdivision to be zoned RU-2 in 1975, with the intention of all lots being in conformance with the zoning designation. Both prior to and after the zoning was enacted, many of the lots were split, leaving lots of 5 acres, 2.6 acres, 2.5 acres, and 1.3 acres. There are currently four homes spread over the subdivision, built between 1984 and 2014. The 2014 home underwent the same request to downzone from RU-2 to RU-4 to use the Owner Builder Opt-Out Amendment in 2014, along with another nearby lot, which has not yet applied for a building permit. Other than the decreased density, all site development standards, including minimum setbacks, maximum height, maximum site coverage, and permitted uses, are identical from the RU-2 and RU-4 designations.





IV. ANALYSIS OF IMPACTS

Mandatory Compliance

Section 2208.03 of the Zoning Regulations requires that the amendment of Zoning District boundaries take place in compliance with the Comprehensive or Area Plan Designation assigned to the area in question. In this case, the subject property lies within a Category "D" Rural Area and is considered a "Rural" area per the Comprehensive Plan. RU-4 zoning is permitted in the Category "D," "Rural" areas and is the default zoning for the majority of the County, therefore this request to rezone to RU-4 complies with the Comprehensive Plan as detailed below.

Compliance with Rezoning Criteria

Section 2208.03 of the Zoning Regulations provides fifteen criteria used to evaluate rezoning requests. Nine of the criteria are applicable to this request, and all of the nine applicable factors are met.

1. Provides an Adequate Land Use/Concept Plan: Not Applicable

The Applicants intend to continue to use the parcel for their personal, residential use. The proposal is intended to facilitate standard, rural home site development, but the parcel would be eligible for the full range of allowed Principal, Accessory, and Special Uses per Article 6 of the Zoning Regulations.

2. Compliance with Applicable Site Development Standards: Complies

As noted above, the 5.00-acre site is undeveloped. Downzoning to RU-4 would not negatively impact the ability of the parcel to be developed. The only site development standard that would become more stringent is the maximum density. The Applicant is aware of this, and has no plans to exceed the RU-4 density.

3. Adjacent Districts Remain Capable of Development: Complies

The proposal would not affect the development prospects of any neighboring property.

4. Limitation on Creation of Nonconforming Uses: Complies

If approved, the rezoning would not create any non-conforming land uses.

5. Compatibility with Existing Development: Complies

There is precedent for RU-4 zoning and Rural Residential development in the immediate area; there is currently RU-4 zoning elsewhere in the subdivision, rezoned for this same reason. That parcel is approximately 1/6th of a mile away. The only other homes in the subdivision are approximately 1 ½ miles away.

6. Rezoning to More Intense Districts: Not Applicable

As indicated, this request is for a downzoning, which in this case would reduce the permitted density by a factor of two.

7. Adequate Services and Infrastructure: Complies

The parcel and the existing road network all support the necessary infrastructure to develop the parcel under the guidelines for the RU-4 zoning designation. As the density is decreasing by a factor of two, the existing infrastructure that was designed to support the RU-2 density will support the RU-4.

8. Traffic Circulation Criteria: Complies

This rezoning request will not alter the layout or function of the existing roadway network and will not require right-of-way dedication or off-site improvements. Rezoning from RU-2 to RU-4 would decrease the permitted density, with a corresponding decrease in potential traffic.

9. Development Along Major Streets: Not Applicable

This parcel does not take access off a Major roadway and is not served by roads within the County Maintenance system.

10. Infill: Not Applicable

This Factor applies only for rezoning requests to General Business, Light Industry or Heavy Industry.

11. Unique Topographic Features: Not Applicable

As this request is for a downzoning, this factor does not apply.

12. Water Conservation: Complies

As this proposed downzoning would reduce permitted maximum density, potential water usage could decrease.

13. Public Input: Complies

As a downzoning, the Applicant was not required to complete a Citizen Review. Staff mailed notices to neighboring property owners within 1,500 ft. of the subject property on April 9, 2017. Staff posted the property on April 17, 2017 and published a legal notice in the *Bisbee Observer* on April 20, 2017. One response in support was received.

14. Hazardous Materials: Not Applicable

No hazardous materials are proposed.

15. Compliance with Area Plan: Complies

The subject property lies within a Category "D"– Rural Area and is considered a "Rural" area per the Comprehensive Plan. This designation is intended to create neighborhoods with lots of two-acres or more. This request would comply by creating a minimum lot size of four-acres per dwelling.

V. PUBLIC COMMENT

In response to County mailings, the Planning Department has received one response in support, which is included in the packet.

VI. SUMMARY AND CONCLUSION

The request is for a downzoning, from RU-2 (Rural; one dwelling per two acres), to RU-4 (Rural; one dwelling per four acres) on a 10.51-acre parcel located on N. Zuni Avenue approximately three miles northeast of the Intersection of Highway 191 and Davis Road. At this time, the area is characterized by open expanses, with all current development occurring on a Rural scale. The Comprehensive Plan designates the site as Rural. This designation constitutes a recommendation on the part of the Plan for a rezoning to a lower-density zoning district, providing a major Factor in Favor of Approval. A rezoning to the RU-4 district would therefore reflect the policies of the Plan, and would better reflect the existing character of the surrounding neighborhood.

Factors in Favor of Approval

1. Allowing the request would be in keeping with the character of the existing development in the area;
2. The Comprehensive Plan policies prescribe a low density of residential development in this area to protect the current character of the neighborhood, and the request would facilitate such a density; and
3. One letter of support has been received.

Factors Against Approval

None

VII. RECOMMENDATION

Based on the factors in favor of approval, Staff recommends forwarding the request for a rezoning, from RU-2 (Rural; one dwelling per two acres) to RU-4 (Rural; one dwelling per four acres) on a 5.00-acre parcel located on N Zuni Avenue approximately three miles northeast of the Intersection of Highway 191 and Davis Road to the Board of Supervisors with a recommendation of **Conditional Approval**, subject to the following Conditions:

1. The Applicant shall provide the County with 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; and
2. It is the Applicants' 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.

VIII. ATTACHMENTS

- A. Application
- B. Location Map
- C. Agency Comment Memos
- D. Public Comment