



Cochise County
Community Development
 Planning, Zoning and Building Safety Division
Public Programs...Personal Service
 www.cochise.az.gov

MEMORANDUM

TO: Cochise County Board of Supervisors
FROM: Peter Gardner, Planner II
FOR: Daniel Coxworth, AICP, Development Services Director
THROUGH: Edward Gilligan, County Administrator
SUBJECT: Docket Z-18-08 (Thiels)
DATE: October 1, 2018 for the October 10, 2018 Meeting

APPLICATION FOR A REZONING

The Applicant is requesting a rezoning from R-36 (Residential; one dwelling per 36,000 square feet) to RU-4 (Rural; one dwelling per 4 acres). The subject parcel is ten acres in size. The request is to facilitate the use of the Owner-Builder Opt-Out Amendment.

The subject parcel, APN 401-17-306, is located on S. Kit Carson Road between E. Highway 181 and E. Turkey Trot Road, east of Sunizona. The Applicant is Daniel Thiels.

I. PLANNING & ZONING RECOMMENDATION

On Wednesday, October 10, 2018, the Planning and Zoning Commission voted 7-0 to forward this Docket to the Board of Supervisors with a recommendation of approval.

II. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 10.02 acres
 Current Zoning: R-36 (Residential; one dwelling per 36,000 square feet)
 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

Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	R-36	Vacant
South	R-36	Scattered Rural Residential
East	Non-Maintained Road/RU-4	S. Kit Carson Road/Vacant
West	R-36	Vacant

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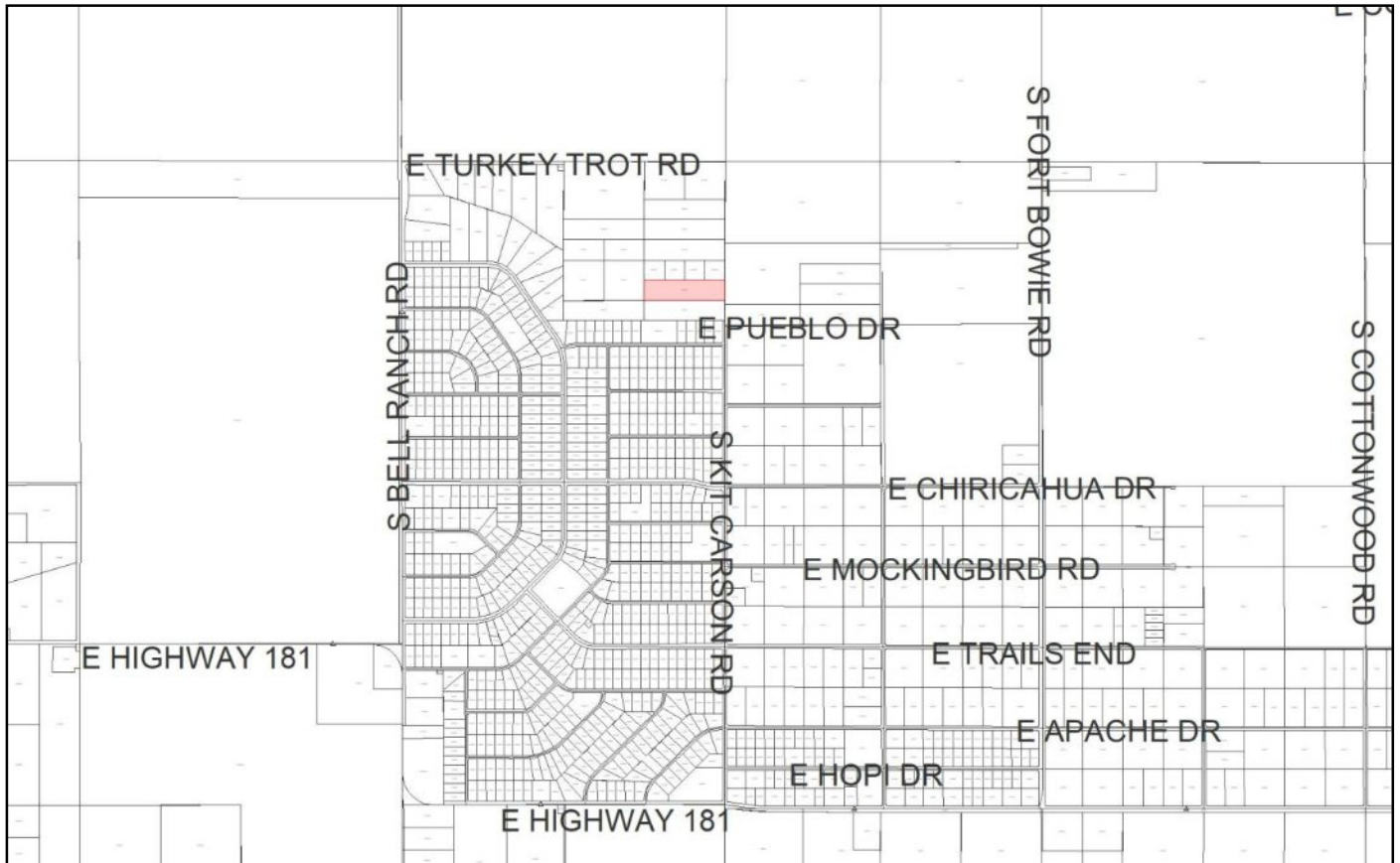
III. PARCEL HISTORY

None

IV. NATURE OF REQUEST

The Applicant is requesting to amend the zoning of his ten-acre parcel from R-36 to RU-4. This will permit the use of the Owner-Builder Opt Out Amendment to the Cochise County Building Code.

The area is largely vacant and agricultural land. There are scattered rural residential uses to the south, with most homes on parcels larger than the required 36,000 square feet. North of E. Turkey Trot Road are scores of agricultural pivots, many owned by Riverview LLP, who plans to construct an additional dairy replacing several of them. A downzone to Rural zoning fits with the actual land uses in the area.



Location Map



V. 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 Applicant intends 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 10.02-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 across S. Kit Carson Road to the east.

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.

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 R-36 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 one mile of the subject property on September 24, 2018. Staff posted the property on September 25, 2018 and published a legal notice in the *San Pedro Valley Sun News*. Two responses in support were 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.

VI. PUBLIC COMMENT

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

VII. SUMMARY AND CONCLUSION

The request is for a downzoning, from R-36 (Residential; one dwelling per 36,000 square feet), to RU-4 (Rural; one dwelling per four acres) on a 10.02-acre parcel located on S. Kit Carson Road between E. Turkey Trot Road and E. Highway 181. 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. Two letters of support have been received.

Factors Against Approval

None

VIII. RECOMMENDATION

Based on the factors in favor of approval, Staff recommends forwarding the request for a rezoning, from R-36 (Residential; one dwelling per 36,000 square feet) to RU-4 (Rural; one dwelling per four acres) on a 10.02-acre parcel located on S. Kit Carson Road between E. Turkey Trot Road and E. Highway 181 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 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.