



Cochise County
Community Development
 Planning, Zoning and Building Safety Division

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MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Peter Gardner, Planner II
FOR: Daniel Coxworth, AICP, Development Director
SUBJECT: Docket SU-18-07 (Majewski Daycare)
DATE: March 29, 2018 for the April 11, 2018 Meeting

APPLICATION FOR A SPECIAL USE AUTHORIZATION

The Applicant requests a Special Use Authorization to expand a current four child day care business located in an existing home, which does not require County permits, to a ten-child day care business, a use considered a Day Care Facility. Day Care Facilities located in Residential Zoning Districts require Special Use Authorization. The 4.47-acre site, APN 202-16-009, is located at 3900 N. Fort Grant Road in Willcox and is zoned R-36. The applicant is Kara Majewski.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 4.47 acres (194,713 square feet)
 Zoning: R-36 (Residential; one dwelling per 36,000 square feet)
 Growth Area: Category B-Community Growth Area
 Comprehensive Plan Designation: Neighborhood Conservation
 Area Plan: None
 Existing Uses: Rural Residential with exempt 4 child day care
 Proposed Uses: Same, with Day Care Facility, up to ten children

Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	R-36	Rural Residential
South	R-36	Rural Residential
East	Non-Maintained Road/R-36	N. El Sol Lane/Rural Residential
West	County Maintained Road/R-36	N. Fort Grant Road/Vacant & Grazing Land

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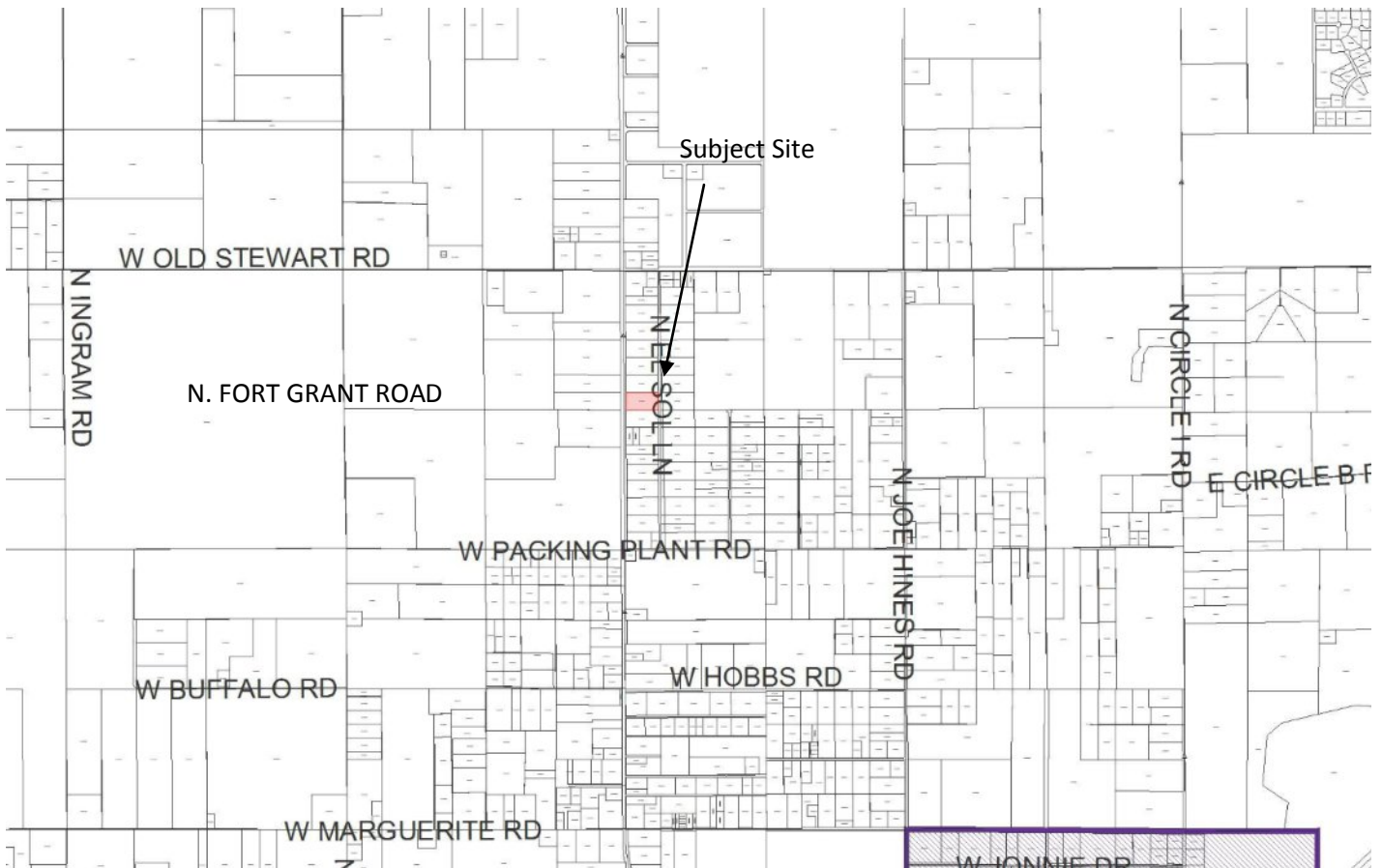
II. PARCEL HISTORY

1977 – Subject SFR Built

2002 – Additional septic and manufactured home installed

III. NATURE OF REQUEST

The Applicant currently provides day care for up to four children in her home, a use exempted from County permitting requirements and licensed through DES. The Applicant would like to apply for a license through DHS which would permit up to ten children, a use considered a Day Care Facility under the zoning regulations. In the Residential zoning district, this requires Special Use Authorization, but is still operated out of a single family home occupied by the Applicant. While the request does require this approval, it remains accessory to the principal use of the site as a primary residence.



Location Map

IV. ANALYSIS OF IMPACTS – COMPLIANCE WITH SPECIAL USE FACTORS

Section 1716.02 of the Zoning Regulations provides a list of ten factors with which to evaluate Special Use applications. Staff uses these factors to help determine the suitability of a given Special Use request, whether to recommend approval for a Special Use Authorization, as well as to determine what Conditions and/or Modifications may be needed.

With the information provided, nine of the ten factors apply to this request. The project as submitted, complies with seven of those nine factors. With the recommended Conditions and Modifications, the other two factors are met.



Aerial view of the site.

A. Compliance with Duly Adopted Plans: Complies

The project site is located in an area designated "Neighborhood Conservation" in the Comprehensive Plan. This use will not change the overall character of the site, while providing a necessary service to the neighborhood. The Strategic and Comprehensive Plans both support economic development which are served both directly and indirectly by permitting parents to work. These plans also support creating healthy, safe communities, and this will provide a safe place for children in addition to the opportunities created for parents.

B. Compliance with the Zoning District Purpose Statement: Complies

The purpose statement in Article 7 makes no mention of any type of non-residential land use, however, Section 706 allows childcare in the R Districts as a Special Use. Typically, small childcare services provided in a home, rather than a school or community center setting, is considered "neighborhood serving" and compatible with residential neighborhoods such as unincorporated Willcox.



The home.

C. Development along Major Streets: Complies

The proposed use would not result in the creation of any additional access points to an arterial road or major thoroughfare.

D. Traffic Circulation Factors: Complies

N. Fort Grant Road is a major collector road and will easily absorb any potential increase in traffic.

E. Adequate Services and Infrastructure: Complies with Conditions

The site is accessed directly from N. Fort Grant Road. The site currently has a native surface, unimproved driveway, which is compliant with existing regulation and adopted road design standards. There is a clear pattern of wear from the current exempt use, with most turning movements coming from and returning to the south, towards incorporated Willcox. The current situation does not give the County any means of requiring improvement or protection of the roadway surface. This proposed increase to a regulated use provides the County with these means. At question is what level of improvement is appropriate. A traditional commercial use such as a retail store or professional services building would require a 24', two lane, chip seal, concrete, or asphalt driveway. A residential driveway, as noted above, can be 12' wide, native surface driveway. The latter has shown a noticeable amount of roadway wear, and the former would be well beyond what is required to protect the roadway based on the actual level of traffic. Staff

suggests that the driveway meet residential standards, with the additional requirement of using AB aggregate construction or better to protect the roadway edge. Staff also suggests that this requirement be deferred for one year after closure of the use permit to allow the applicant to procure funds.

All other infrastructure is existing.

F. Significant Site Development Standards: Complies with Modifications

Based on the nature of the use, which is akin to an accessory residential use rather than a true commercial use, Staff recommends the site be treated as a residential site for all site development standards except as noted above.

G. Public Input: Complies

The Applicant mailed letters to property owners within 1,000-feet of the property prior to application submittal. The Planning Department mailed letters to neighboring property owners within 1,000-feet of the subject property, published a legal ad in the *San Pedro Valley News-Sun* and posted legal notices on the property. To date, staff has received three letters of support. Neighboring property owners have noted that any business is good for the area, that the applicants are providing a much-needed service and have an excellent reputation.

H. Hazardous Materials: Does Not Apply

The Applicant states that no hazardous materials will be used or stored on site.



The access onto Fort Grant, showing the existing wear.

I. Off-Site Impacts: Complies

The only offsite impacts are to the roadway, which have been addressed above.

J. Water Conservation: Complies

The project site is not located within the Sierra Vista Sub-Watershed, and no new construction is proposed. Additional water usage will be minimal.



Playground for the children.

V. PUBLIC COMMENT

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VI. SUMMARY AND CONCLUSION

The Applicant requests Special Use approval to add six additional children to an existing exempt child care operation, placing the proposed use into the category of Day Care Facility.

This department must weigh multiple, sometimes competing interests when reviewing requests. In this case, we must consider Public Health and Economic Development which are served by creating additional safe child care opportunities, permitting more individuals to work while guaranteeing safe situations for their children, as we also consider Infrastructure Protection, by striving for risk mitigation to our County roadway by requiring a higher level of driveway construction. We must note that this is not a Commercial request as many people would understand it, and the impact to the roadway is not on par with a new retail store or restaurant. Both the Special Use Authorization and the DHS regulations cap the number of children in the home at ten, placing a firm limit on traffic generation. In addition, the limited nature of the request and use limit the available financing from the Applicant, which must be considered when weighing the options above. If the County refuses a compromise from a full commercial driveway, the applicant will withdraw the application and continue at the level of current operation. This removes any ability of the County to require or request any repairs on the driveway, failing to fulfill any of the relevant interests as the existing level of traffic and wear will continue.

Based on the factors above, including the limited scope of the request, essentially being an accessory use in an existing single family dwelling, the nature of the other driveways in the area, which are all similar to the Applicant's, even those that serve commercial or agricultural uses, and the Applicant's stated willingness to place AB to repair and improve the driveway, we are comfortable deeming the driveway Residential and recommending that the Commission approve a modification to use AB instead of DBST.

Further, Staff recommends that for all other standards the site be deemed residential in nature.

Factors in Favor of Approving the Special Use

1. The use complies with the Comprehensive Plan and Zoning District purpose statement;
2. With the requested Conditions and Modifications, the request complies with all of the nine applicable Special Use factors;
3. The site has been in operation as a four-child day care operation since 2003, without incident;
4. The increase in children will grant the County the authority to require some level of improvements to protect Fort Grant Road;
5. Although commercial in nature, the use would be low-impact, and in overall harmony with surrounding residential development; and
6. Staff has received three letters of support of the request.

Factors Against Allowing the Special Use

1. Until driveway buildout, additional damage may occur on the edge of Fort Grant Road.

VII. RECOMMENDATION

Based on the factors in favor of approval, Staff recommends **Conditional Approval** of the Special Use request, 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 properties within thirty (30) days of approval of the Special Use Permit. Prior to permit issuance, the Applicant shall submit and obtain building/use permits within 12 months of approval, including a completed joint permit application. The building/use permit(s) shall include a site plan in conformance with this approval and meeting all site development standards (except those specifically waived or modified by the Planning Commission as part of this approval), the completed Special Use Permit questionnaire, and appropriate fees. A permit must be issued within 18 months of approval, otherwise the approval may be deemed void upon 30-day notification to the Applicant;
2. It is the Applicant's responsibility to obtain any additional permits or meet additional conditions, if any, that may be applicable to the proposed activities pursuant to other federal, state, or local laws or regulations;
3. Within one year of temporary Certificate of Occupancy, the Applicant shall construct a driveway to residential standards with an AB or better surface; and
4. Any changes to the approved Special Use shall be subject to review by the Planning Department and may require additional modification and approval by the Planning and Zoning Commission.

Sample Motion: *Mr. Chairman, I move to approve Special Use Docket SU-18-07, with the Conditions of Approval and Modifications recommended by staff; the Factors in Favor of Approval constituting the Findings of Fact.*

VIII. ATTACHMENTS

- A. Application
- B. Parcel map, aerial, and site plan
- C. Citizen and Agency comment memos