

# COCHISE COUNTY

## Docket SUA-18-14 (St Jude Alternative Healing)

Appeal of a Denial of a Special Use Authorization  
For Medical Marijuana Cultivation  
in a Rural (RU-4) zoning district.

Board of Supervisors

February 12, 2019



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## **COCHISE COUNTY**

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- On December 12 the Commission voted 0-7 to deny the request.
- The request is to permit the cultivation on Medical Marijuana on a currently vacant Rural site. No infusion or dispensary is proposed. The site is proposed as a two acre experimental outdoor cultivation site.
- The subject property, APN 407-84-009A, is located on W. La Luna Drive, west of N. Kings Highway west of Douglas, and is 17.12 acres in size. The site is zoned RU-4.
- As submitted, the proposal complies with three factors, complies with three more with conditions, and does not comply with three. One factor does not apply.



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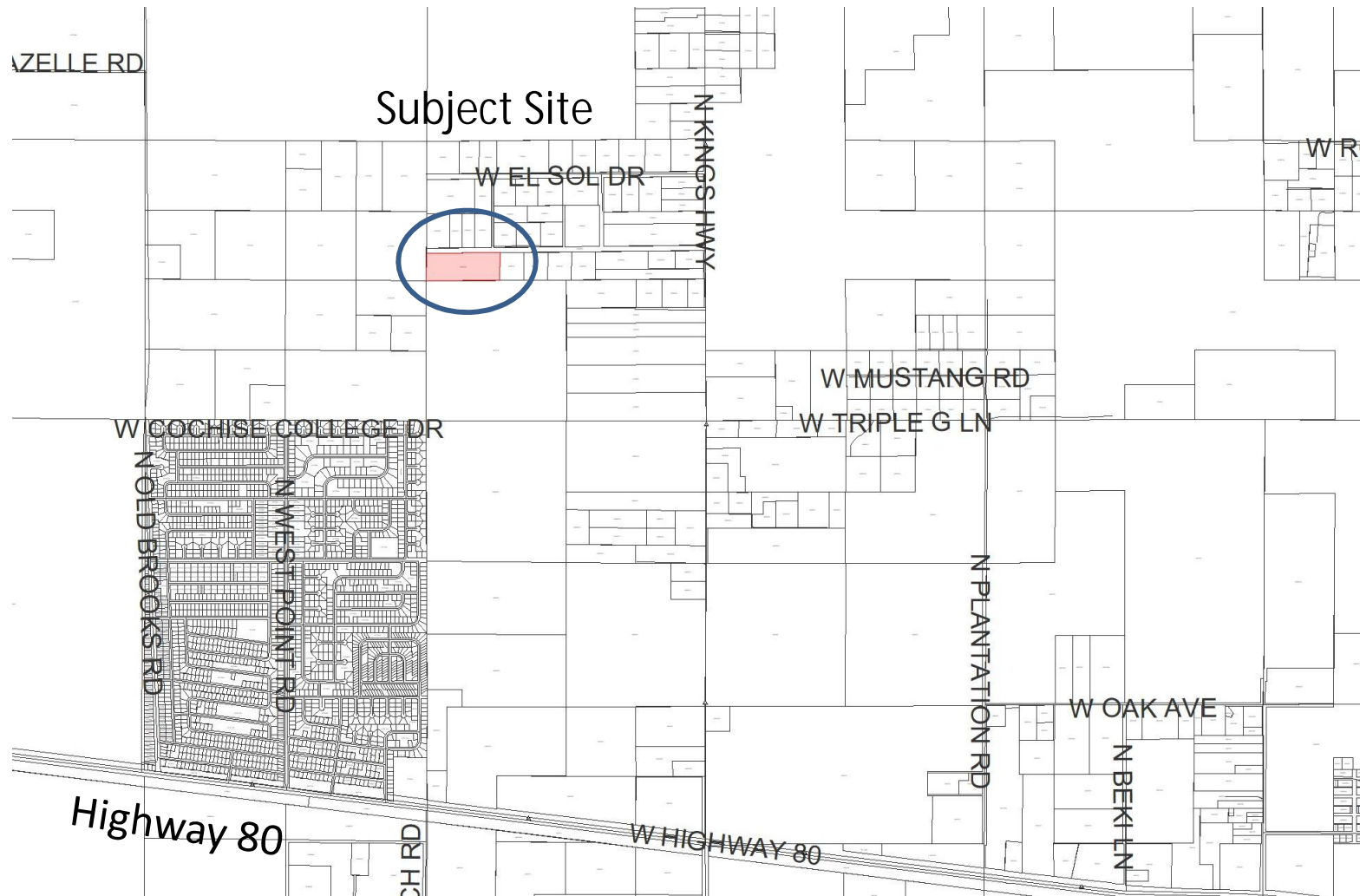
Section 1716.04 of the Zoning Regulations governs the appeal of Special Use Authorization Decisions.

The Appeal shall include:

1. An identification of the decision being appealed; **The Appellant requests that the entire decision be overturned and the docket approved.**
2. A complete statement of all reasons why the appellant believes that the decision, or any part of the decision, was erroneous, arbitrary, capricious, or an abuse of discretion; **The Appellant states that Staff failed to provide water information, and that reasons for denial are items required under state law.**
3. Written presentation of additional testimony and evidence, a full explanation of the additional testimony and evidence that will be submitted, with an explanation of why this was not presented to the Planning Commission. **The Appellant has provided information on water, the roadway, and medical marijuana in general.**

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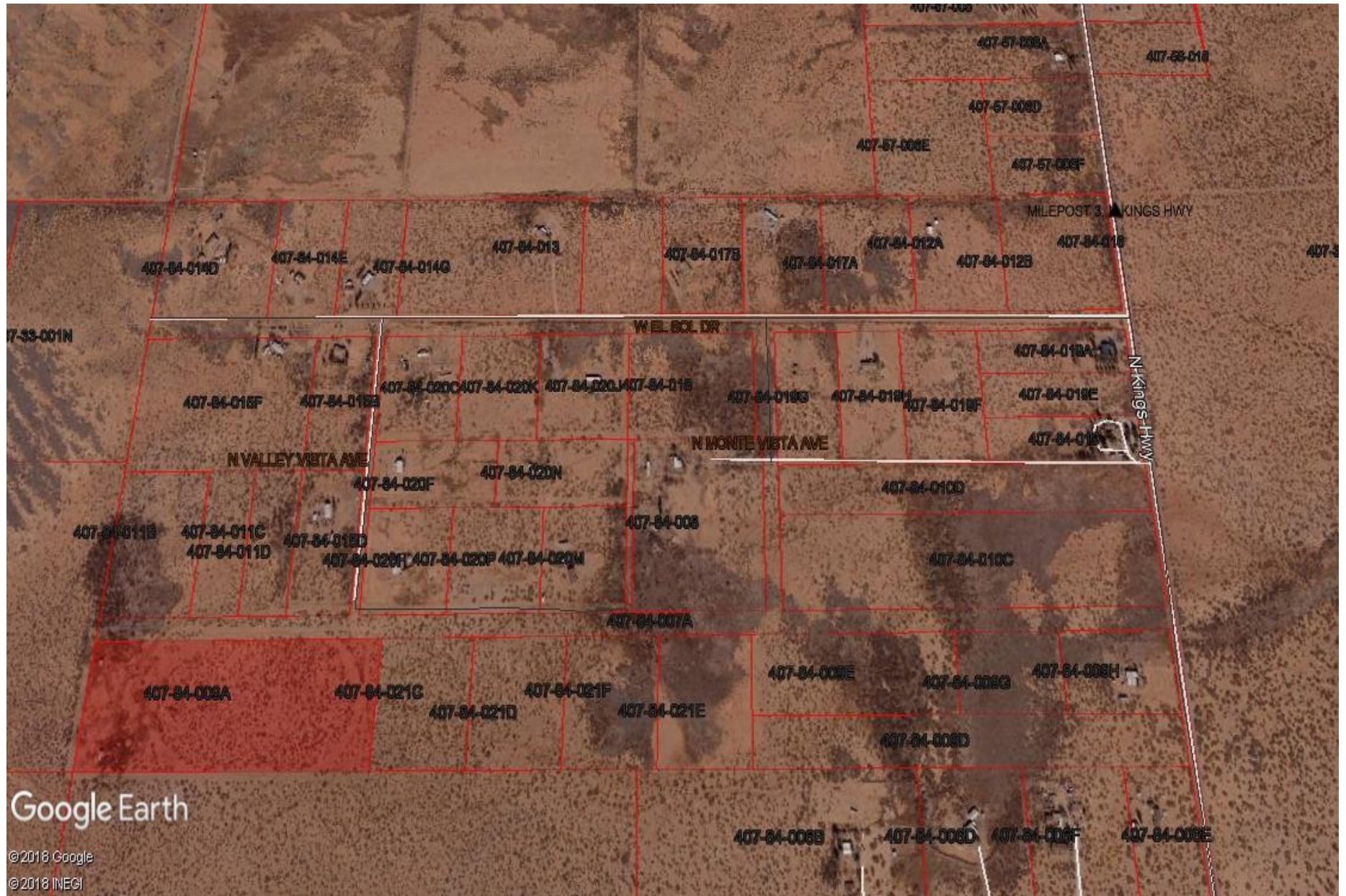
# Location



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# Location



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### **Docket SUA-18-14 (St Jude Alternative Healing)**

#### **A. Compliance with Duly Adopted Plans: Complies**

The proposed project satisfies the criteria for Comprehensive Plan D-Rural areas since the proposal is in an outlying rural area between unincorporated communities that have a low growth rate and is in a very low-density area is surrounded by agricultural and vacant lands. The proposal also supports the Agriculture and Ranching, Economic Development, and Rural Character Comprehensive Plan Elements.

#### **B. Compliance with the Zoning District Purpose Statement: Complies**

The proposed project satisfies the zoning district purpose statements.

#### **C. Development Along Major Streets: Not Applicable**

The property is located on the south side of W. La Luna Drive and therefore does not take access from any Major thoroughfare or arterial street.



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#### D. Traffic Circulation Factors: Does Not Comply

Access is taken from a privately-maintained road network, W. El Sol Drive, N. Valley Vista Avenue, & W. La Luna Drive. El Sol Drive connects to Kings Highway, which is a county-maintained chip seal roadway. The proposed use routes non-residential traffic through streets currently used solely for residential traffic, in contravention of section 1716.02.D.2 of the zoning regulations.

#### E. Adequate Services and Infrastructure: Complies with Conditions

The road network is inadequate for the proposed use. The existing conditions of the non-maintained roads along the access route are poor, with washboarding, ruts, tire tracks, and, in some places, no actual roadway at all. Staff recommends that if the docket is approved, a condition requiring the Applicant to improve the roadways from Kings Highway to the parcel to at least County primitive road standards and sign an agreement to participate in maintenance of said roads. This agreement would not obligate any other parties to participate in this maintenance. Another condition is included requiring a chip seal or better apron at the connection between Kings Highway and El Sol Drive.



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#### F. Significant Site Development Standards: Complies with Conditions

The applicant has not requested any waivers from site development standards. All site development standards must be met to obtain a non-residential use permit, should this request be approved. The property has adequate area for parking. In addition to County regulations, the applicant will be required to meet all regulations and requirements established by the State of Arizona for these types of facilities including security cameras, perimeter fencing and secured access to the cultivation greenhouses.

The enclosure of two acres in a solid fence or wall will require a drainage analysis to be submitted to and approved by the County Engineer to ensure that water will not be diverted onto other properties or otherwise alter the flow of water.

#### G. Public Input: Does Not Comply

The Applicant sent letters to all property owners within 1 mile of the subject parcel to notify them of this application. The County notified the same owners, and received opposition from 30 property owners, and support from eight, including the property owner and the Applicant, who owns another nearby property. This opposition includes concerns about water usage, roads, lighting, safety, visual impacts, and concerns about the overall legality of the use. Notably, the only support from the directly impacted neighborhood comes from the property owner and the Applicant, while the majority of the occupied parcels in the immediate neighborhood object.



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#### **H. Hazardous Materials: Complies**

Natural pest controls will be used to deter and control pests. Only organic fertilizers will be used. No hazardous materials or pesticides will be used.

#### **I. Off-Site Impacts: Does Not Comply**

The proposed facility is anticipated to produce off-site impacts with lighting, visual impacts, dust, odors, and wear on the already poor roads. The required ten-foot wall and security lighting will be out of place in a rural neighborhood such as this. The Applicant proposes water trucks to keep dust under control, but cannot mitigate water or visual impacts as the project is proposed.

#### **J. Water Conservation: Complies with Conditions**

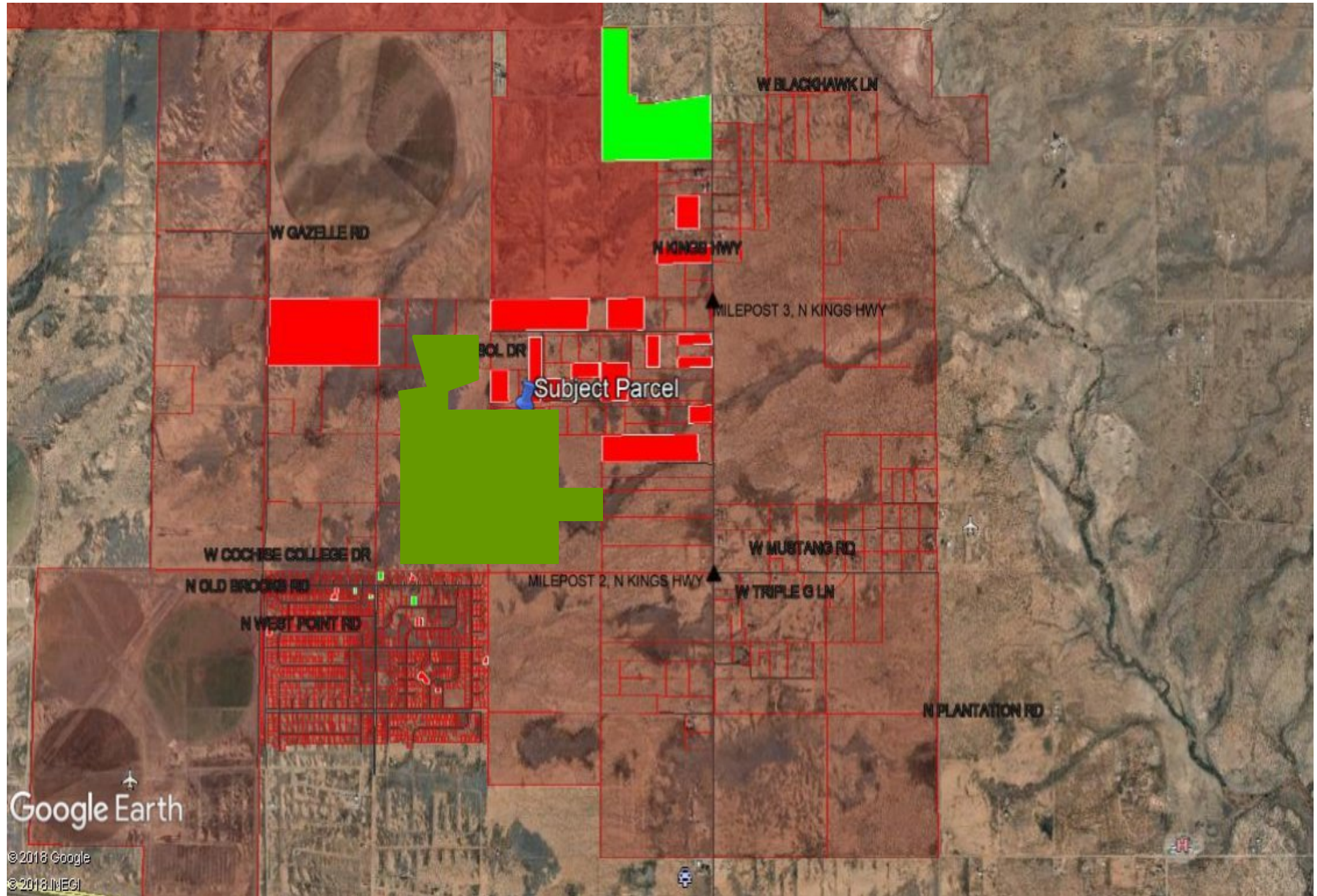
The applicant is proposing to recycle and capture water during hydroponic growth. If approved Staff recommends a condition to follow the water conservation requirements in section 1819.B. These include, but are not limited to, the prohibition on misters, which the Applicant has stated they wish to use, and the requirement for rain or humidity sensors to limit use of irrigation during precipitation events.



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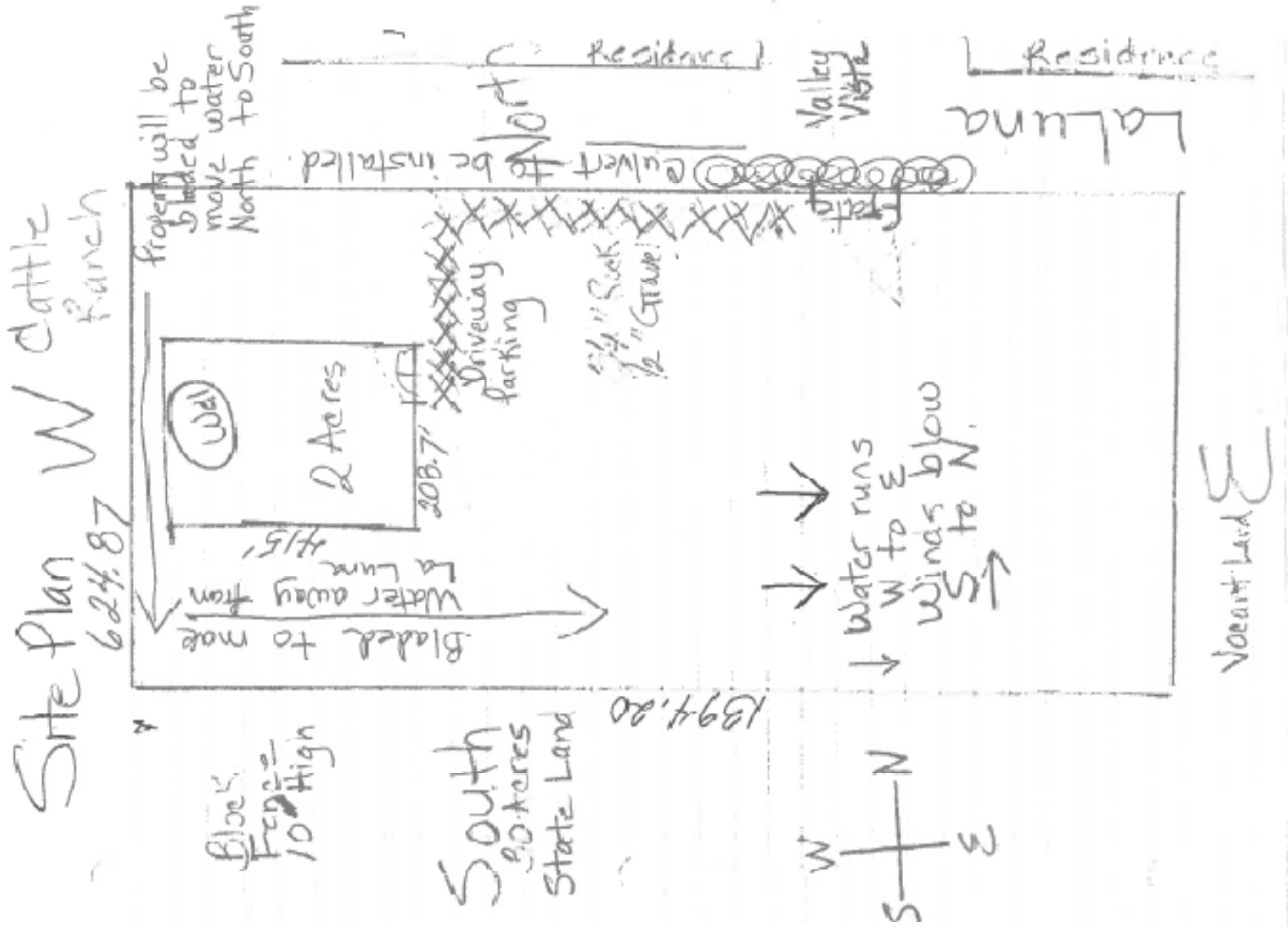
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# Support/Opposition



# COCHISE COUNTY

# Concept Plan



# COCHISE COUNTY



W. El Sol Drive

# COCHISE COUNTY



N. Valley Vista & N. La Luna Drive

## COCHISE COUNTY



N. La Luna Drive

# COCHISE COUNTY



A nearby home

# COCHISE COUNTY



A nearby home

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# Factors in Favor of Approval

1. With the recommended Conditions of Approval, the proposed use would fully comply with three of the nine applicable Special Use factors used by staff to analyze this request, and complies with conditions with three additional factors;
2. The proposal complies with the Adopted Comprehensive Plan Agriculture and Ranching, Economic Development and Rural Character Elements;
3. The proposal complies with the Rural Zoning District purpose statement;
4. If any other crop were being grown, the use would be exempt from County Zoning and Building Codes;
5. Six property owners plus the owner and the Applicant have sent letters of support for this application.

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# Factors Against Approval

1. The Planning & Zoning Commission voted unanimously to deny the request;
2. Three of the applicable nine Special Use Factors do not Comply, and cannot be met via Conditions;
3. Visual impacts cannot be mitigated due to state requirements;
4. The proposed cultivation method does not comply with water conservation regulations;
5. The site lies within the Douglas INA;
6. Thirty Property owners have sent letters in opposition to this application.

## COCHISE COUNTY

# Recommendation: Denial

1. Within 30-days of approval of the Special Use, the Applicant shall provide the County a signed Acceptance of Conditions form and a Waiver of Claims form arising from ARS Section 12-1134. Prior to operation of the Special Use, the Applicant shall apply for a building/use permit for the project within 12-months of approval. The building/use permit shall include a site plan in conformance with all applicable site development standards (except as modified) and with Section 1705 of the Zoning Regulations, the completed Special Use permit questionnaire and application, and appropriate fees. A permit must be issued within 18-months of the Special Use approval, otherwise the Special Use may be deemed void upon 30-day notification to the Applicant;
2. 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;
3. 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;
4. In advance of, or concurrent with their Commercial Permit application, the applicant is required to construct to County Standards and provide a Private Maintenance Agreement for W. La Luna Drive, N. Valley Vista Avenue, and W. El Sol Drive from their driveway to N. Kinds Highway Road;
5. In advance of, or concurrent with, the Commercial Permit application the Applicant shall apply for a permit to construct a private road apron meeting per the requirements of the County Engineer, and complete said apron within one year of permit issuance;
6. Prior to the construction of the screening wall a drainage statement/analysis will be required.



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