



Cochise County
Community Development
 Planning, Zoning and Building Safety Division

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MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Robert Kirschmann, Planner II
FOR: Daniel Coxworth, AICP, Planning Director
SUBJECT: Docket SU-19-06 (Counter Intelligence)
DATE: April 30, 2019 for the May 8, 2019 Meeting

APPLICATION FOR A SPECIAL USE

The Applicant requests a Special Use Authorization to approve a 1,600 square foot building to be used in manufacturing countertops. In the Rural Zoning District manufacturing and storage require Special Use Authorization.

The 4.55 acre site, 106-04-126B, is located at 2439 N. Busick Road and is zoned RU-4. The Applicant is Jonathan Montez.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size:	4.55 acres (210,026 sq-ft)
Existing Zoning:	RU-4 (Rural; one dwelling per 4 acres)
Proposed Zoning:	No changes
Growth Area:	Category B-Community Growth Areas
Comprehensive Plan Designation:	Developing
Area Plan:	None
Existing Uses:	Single family home
Proposed Uses:	Same with a 1,600 square foot workshop



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Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	SR-174 (Single-Household Residential one dwelling per 4 acres)	Rural Residential
South	SR-174 (Single-Household Residential one dwelling per 4 acres)	Camino De Manana/ Rural Residential
East	RU-4 (Rural; one dwelling per 4 acres)	Rural Residential
West	RU-4 (Rural; one dwelling per 4 acres)	Rural Residential

II. PARCEL HISTORY

- 1964 home built
- 1988 196 square foot sunroom

III. NATURE OF REQUEST

The Applicant requests a Special Use Authorization to approve a 1,600 square foot building to be used in manufacturing countertops. In the Rural Zoning District manufacturing and storage require Special Use Authorization.

The parcel is currently developed with a single family home. The Applicant is requesting to construct the shop so that they can make Counter tops for their existing business.

There is no actual manufacturing taking place at the residence, however there is not a perfect category for the request.

The Applicant orders slabs of a Corian type material and brings it to his residence in a standard pick up truck. No delivery trucks or semis will come to the location aside from typical Fedex and UPS type deliveries.

Once the "raw" material is at the location the Applicant will then router, sand, shape and glue the countertops together. This is done using tools and materials found in many residential shops. The Applicant has provided a detailed explanation of the process and photos, which is included in the Application attachment.

There are no hazardous chemicals used beyond what is found in a typical residence and shop.

The process is conducted inside the shop building. The interior will be insulated and doors and windows kept closed to help mitigate noise. In addition, the building is set back at least 60 feet from the property line which will also helps to reduce any noise impacts.

In addition to the Applicant, there will be one other part-time employee that will assist in the process.



Once the Applicant has finished the counter top, they are transported by a standard pick up truck to the customers location and installed.

The proposed use is more akin to a home based business then a full scale warehouse, storage or manufacturing. The Zoning Regulations allow an owner of a residence to apply for a non-discretionary Home Occupation permit if they meet certain criteria. The Applicant met all the criteria for being a home based business except the size exceed 25% of the residence.

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.

Nine of the ten factors apply to this request. The project, as submitted, complies with seven of those factors. With the recommended conditions of Approval and modification the project complies with one more. The project does not comply with Public Input. The last remaining factor is not applicable to this application.

1. Compliance with Duly Adopted Plans: Complies

The proposed project complies with the Comprehensive Plan. The area is Designated as Category B, Community Growth Area, Developing Areas. These areas are “designated has a moderate level of residential and/or non-residential growth”. The area is located near the junction of State Highway 90 and 82. As such, there will be continued developed pressures in the area. The proposed project will have a minimal impact on the existing neighborhood.

“The “Developing” (DEV) plan designation is used to describe areas experiencing non-rural growth rates that are developed with scattered, mixed residential, business or industrial and agriculture-related uses and that ultimately will accommodate future growth as the more populated areas reach build-out”. This area has a variety of agriculture, commercial and home based business scattered through out.

2. Compliance with the Zoning District Purpose Statement: Complies

The purpose Section 601.02 states “To encourage those types of non-residential and non-agricultural activities which serve local needs or provide a service and are compatible with rural living”. The Building proposed is typical of a rural property and will not obviously be a business. The home based business will be small enough to limit any impacts to the neighborhood while providing service to those that need counters.

3. Development Along Major Streets: Complies

The parcel is accessed from Camino de Manana (a County maintained paved road) to Busick Road (a private non county maintained road) is a paved two lane county collector. The existing residence has existing access to Busick Road and



an additional access is proposed for the workshop.

Although the traffic impact from the proposed use is minimal, a non residential use is still proposed and as such, the applicant will be required to enter into a private maintenance agreement for Busick Road. Staff has not received input from the other residence that utilizes the road.



4. Traffic Circulation Factors: Complies

The proposed use will not increase neighborhood traffic beyond what is typical of a single family home. The business owner and operator lives on site. The business will have one part-time employee that will travel to the

residence. Materials brought to the site will be completed using a personal pick up truck. No semis or box vans, aside from typical Fedex and UPS deliveries will occur.

5. Adequate Services and Infrastructure: Complies

The site is currently developed with a single family home. The shop will utilize the existing electric and water on the site. No sink or restroom facilities are included in the garage. For those needs the owner and the part-time employee will utilize the existing restroom in the home.

6. Significant Site Development Standards: Complies with modifications

The Site plan shows adequate parking for both personal vehicles and the one employee. There will be **no customers** coming to the site so no parking is required for customers.



The site plan shows that the building will be at least sixty feet from the property line, exceeding the required 20 foot setback.

Staff recommends treating the use as residential in regard to development standards. This includes a wavier of the requirement to construct solid screening and paved parking. In this area adding the solid block wall would not be appropriate and would result the use looking more like a commercial or industrial property then leaving the native mesquites as the screening. The site is located on a private dirt road and providing paved parking and access off a dirt road would not be appropriate.

All outdoor light is required to comply with the lighting regulations.

7. Public Input: Does not Comply

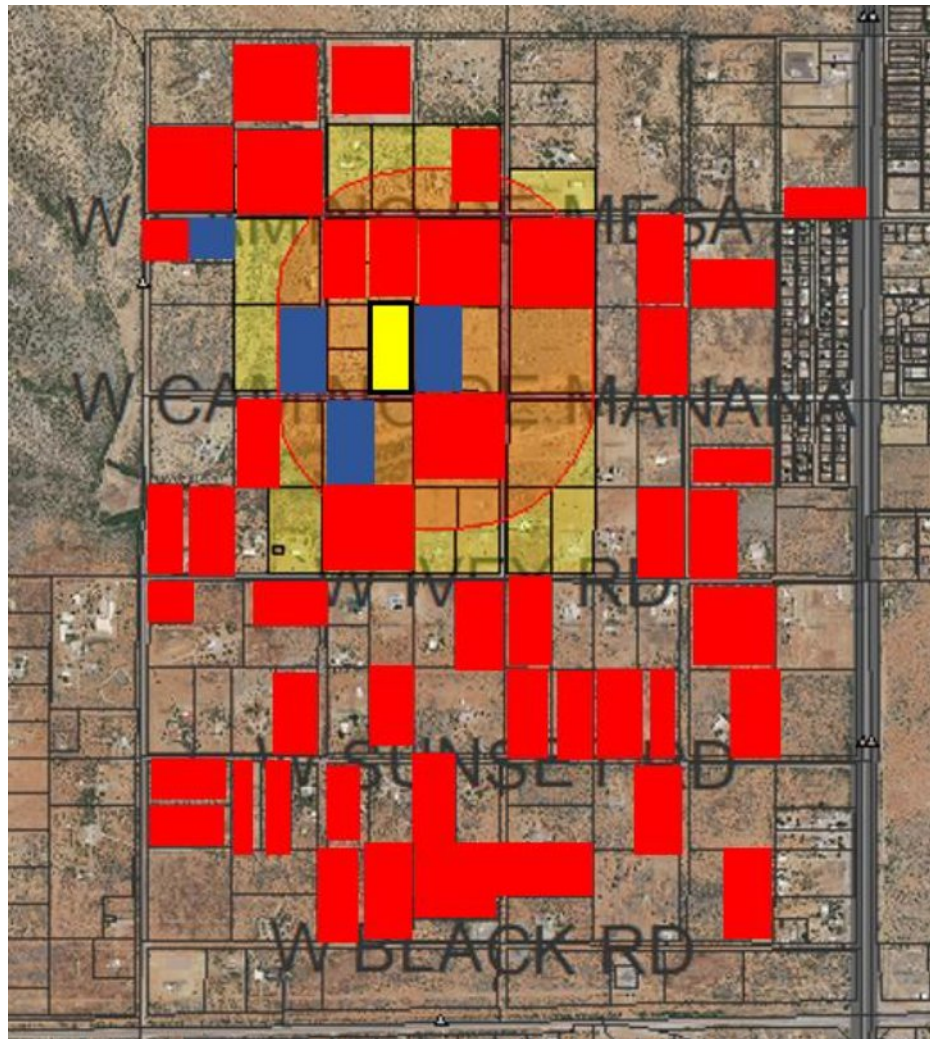
The Applicant sent letters to all property owners within 1,000 feet of parcel to notify them of his application and to address any neighbor concerns. Staff also provided notice. Four letters in support, sixt-nine letters in opposition were received and are included in the packet.

The majority of property owners in the area have expressed concern regarding this approval. Issues cited include noise, dust control, water use, manufacturing in the neighborhood, violation of CC and Rs.

All of these issues are addressed elsewhere in this report except the Covenants, Conditions and Restrictions (CC&Rs). First and foremost, the County **does not** enforce CC&Rs. These are enforced by the Home Owners Association or through a legal process.

Second, if the CC&Rs were to be fully enforced most properties would be in direct violation. These violations would include:

- No frame construction (Condition 2)
- No detached structures (Condition 4)
- Animals (Condition 6)
 - Only domestic pets (no livestock*)
 - *Horses allowed only if you have a minimum of 10 acres (most properties **do not** meet this)



8. Hazardous Materials: Not Applicable

The Applicant will not be manufacturing anything on the premise. The Applicant will bring a whole slab in and finish the surface. The finishing process will produce non toxic dust that will be lighting washed off on to the floor, allowed to dry and be swept up. The dust is not toxic, however similar to saw dust, dirt, or other airborne particulates repeated exposure may result in some health issues if a dust mask is not regularly worn. The doors and windows will be kept closed, and air filtration system is used in the building preventing the particulates from leaving the building.

9. Off-Site Impacts: Complies

The use will not have any significant impacts to the surrounding neighborhood. The proposed use is essentially a home based business, which per our Zoning Regulations is a non-discretionary permit. In fact, if the applicant were to reduce the shop, or area used to no less than 25% of the primary structure (456 square feet) it could be permitted as a matter of right.

Arizona State Law, ARS Section 11-820 *Restriction on Regulation; home-based business; exception; definitions.* State Law defines: *"Home-based business" means any business for the limited manufacture, provision or sale of goods*

or services that is owned and operated by the owner or tenant of the residential property (ARS 11-820(C)(2)). We are prohibited from restricting or regulating onsite traffic, parking and delivery area provided that it does not cause on-street parking congestion or substantial increase in traffic through the residential area. We cannot restrict Applicant from employing residents of the primary dwelling, immediate family members and up to two non-resident family members.



10. Water Conservation: Complies

The applicant will use a water nozzle rated at 1/2 gallon per minute to wash off excess material. Other than that there is no other water use proposed on the site. No new landscaping is proposed for the project.

V. PUBLIC COMMENT

The Applicant mailed letters to neighboring property owners within one mile soliciting input from the Community. Staff mailed notices to neighboring property owners within one mile of the subject property on April 10, 2019. Staff posted the property on April 22, 2019 and published a legal notice in the *San Pedro Valley Sun-News* on April 17, 2019. Staff has received a total of seventy three responses. Four of the responses are in support, 69 responses are in opposition, and one stated they would agree with the majority. A copy of all correspondence received as of May 1, 2019 is included in the packet.

VI. WAIVERS

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

VII. SUMMARY AND CONCLUSION

The Applicant requests a Special Use Authorization to approve a 1,600 square foot building to be used in manufacturing countertops.

Factors in Favor of Approving the Rezoning/ Special Use

1. With the recommended Conditions of Approval, the Special Use would fully comply with the seven Special Use factors used by staff to analyze this request;
2. The rezoning request is permitted in the Growth Category D, Rural Area Designation and therefore meets the mandatory compliance for rezoning;
3. The subject parcel is of a size and configuration that would allow compliance with all applicable site development standards with the conditions;
4. The proposed Special Use is low impact and more akin to a home occupation.
5. The request for this Special Use is allowable within the RU-4 Zoning District;
6. Four letters of support have been received as of the writing of this report.

Factors Against Allowing the Special Use

1. Sixty-nine letters in opposition to the request have been received;

VIII. RECOMMENDATION

Based on the factors in favor of approval, Staff recommends **Conditional Approval** of the Special Use request, subject to the following Conditions and Modification above:

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. The shop building shall be fully insulated to help reduce any noise impact from the equipment.
4. Should the property be sold, or otherwise transferred, the Special Use shall cease and a new special use application shall be submitted for consideration.
5. Any changes to the approved Special Use will be considered a Modification to this Special Use and will require review and approval of the Planning and Zoning Commission.

Sample Motions:

Mr. Chairman, I move to approve Docket SU-19-06, with the Conditions of Approval recommended by staff; the Factors in Favor of Approval constituting the Findings of Fact.