

## Special Use Docket SU-19-03 (Foreman)

**YES, I SUPPORT THIS REQUEST**

Please state your reasons:

THIS REQUEST WOULD HAVE NO NEGATIVE EFFECT ON THE COMMUNITY. SMALL FOOTPRINT AND SMALL FACILITY. IT WOULD BE A SERVICE FOR LOCAL FAMILIES WHO NOW HAVE TO TRAVEL A DISTANCE FOR DAYCARE SERVICES. THIS SHOULD BE APPROVED.

**NO, I DO NOT SUPPORT THIS REQUEST:**

Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S): RONALD H. VAN LOAN

SIGNATURE(S): Ronald H. Van Loan

YOUR TAX PARCEL NUMBER: 12420093  
12420092 (the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Planning Commission. Submission of this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. Written comments must be received no later than 4 PM on Monday April 1, 2019 to be included in the staff report to the Commission in order for them to consider the comments before the meeting. We cannot make exceptions to this deadline; however, if you miss the written comment deadline you may still send email comments, or phone Robert Kirschmann at the contact information listed on page one by April 09, 2019 to have your support or non-support noted verbally noted at the meeting; or you may personally make a statement at the **public hearing on April 10, 2019**. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting; your cooperation is greatly appreciated.

RETURN TO: Robert Kirschmann, Planner II  
Cochise County Planning Department  
1415 Melody Lane, Building E  
Bisbee, AZ 85603

Hi Louisa,

I have no objection and will respond to the County accordingly.

I own 22 or so lots in this immediate area (some in my name and some in my profit sharing plan's name which is Canyon State Equity, Inc., PSP) and would like to sell them all, at a very low price! Years ago I bought them from a home builder who was moving out of state. I wanted to continue building and selling, basically just what the previous owner did...but my plans changed, and the real estate market crashed in 2008 or so, so there was little demand. Now the market has improved. If you know anyone who would be interested, please forward this e-mail to them. This could be mutually beneficial for us both. Are there a lot of families with young children in the area now?

Take care and good luck!

Alan Day  
928-910-3956

**From:** [Billie Jane Mc Inerney](mailto:Billie Jane Mc Inerney)  
**To:** [Kirschmann, Robert](mailto:Kirschmann, Robert)  
**Subject:** Docket Su-19-03 (Forman)  
**Date:** Wednesday, March 27, 2019 1:57:48 PM

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To Robert Kirshcman,  
[rkirschmann@cochise.az.gov](mailto:rkirschmann@cochise.az.gov).  
Cochise County Community Development  
Planning, Zoning and Building Safety Division  
Bisbee, Arizona 85603  
27 Mar 2019

Subject: Docket SU-19-03 (Forman)

Dear Mr. Kirshcman,

Thank you for sending the letter regarding the request for Special Use Authorization to approve a Daycare Facility located at 3154 W. Cactus Blossom Drive, Benson, AZ

First: I have a concern as to traffic that will be going and leaving this daycare business. As you may know Green Park is an unimproved road and is alternately dry and dusty or wet and muddy and is hard enough to live with as it is with local traffic. So would like to see an alternate road to serve this daycare business.

Second: This is a residential area so what if this business goes in will that in any way change our area from residential to say Business.?

Thank you again for the contact

Billie Jane McInerney  
649 N Ironwood Rd  
Benson, AZ 85602  
[janemacmc@gmail.com](mailto:janemacmc@gmail.com)  
1-928-581-2658

**From:** [Clarence Wyland](#)  
**To:** [Kirschmann, Robert](#)  
**Cc:** [clarence\\_wyland](#)  
**Subject:** Docket SU-19-03 (Forman)  
**Date:** Tuesday, March 26, 2019 1:58:58 PM

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Dear Mr. Kirschmann, (Ph: 520-432-9248 ) [rkirschmann@cochise.az.gov](mailto:rkirschmann@cochise.az.gov)

Thank you for sending the letter regarding the notice regarding the request for *special use* request.

I have a couple concerns, and wanted make you aware as I will not be able to attend the meeting.

The amount of traffic generated ( *to the residence, then back out in the AM, and then again in the PM* ) by 10 separate children being brought to/from the residence for day care.

That amounts to 40 trips past my home on a dirt street. If the streets were paved it would be much easier to deal with.

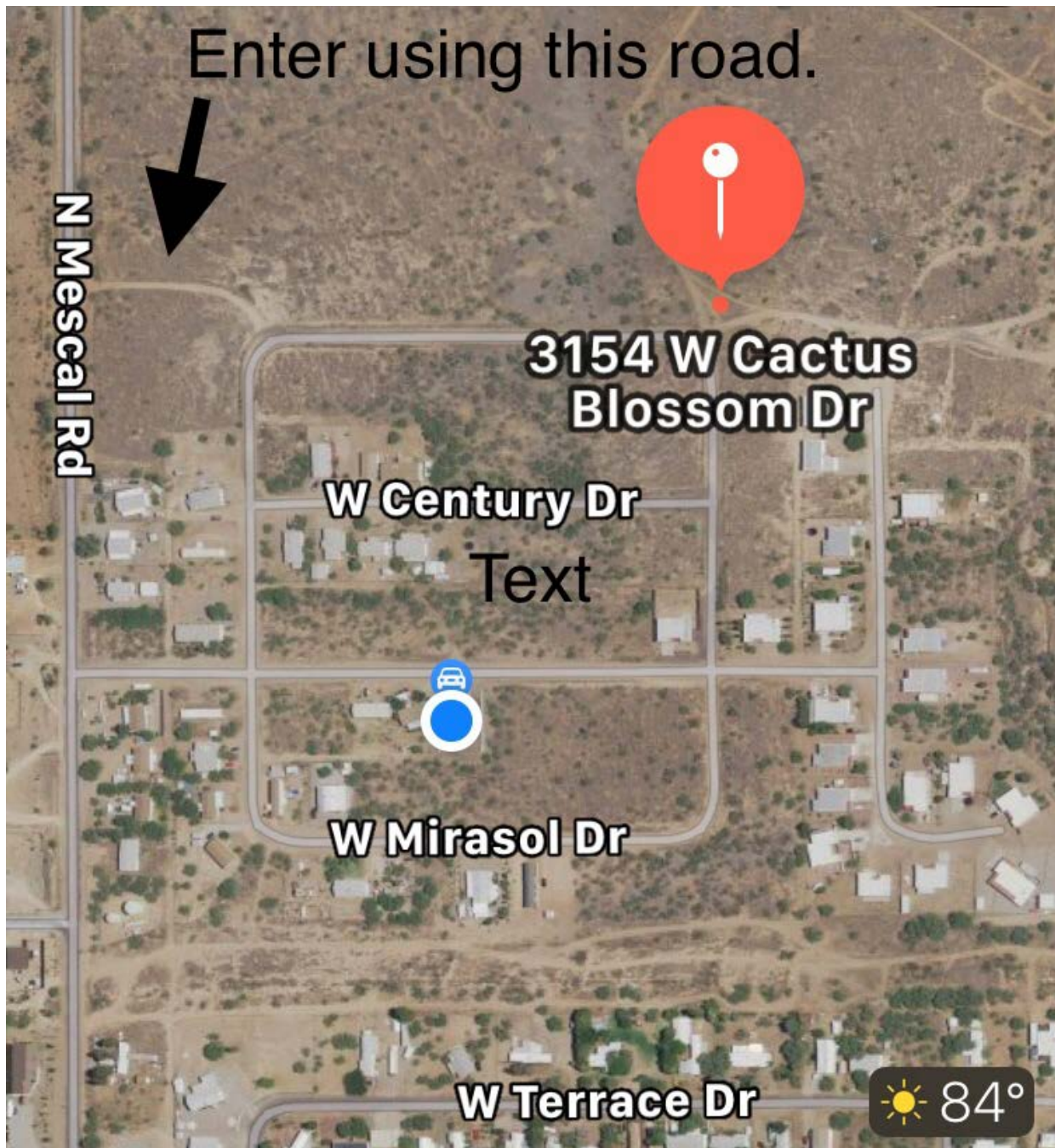
I am not saying that none residents will not adhere to the speed limit, but the roadway is a mess most of the time now, I can only imagine what a disaster it will become with the additional traffic.

The notice mentions that the residence is in a multi-household residential district.

The Mescal Lakes III subdivision covenants specify no businesses allowed. (*It also specifies: no trailers, trucks, tractors, no more than 2 dogs, etc...*) all of which is ignored.

If Ms. Forman would guarantee that her customers to exit Mescal Rd onto the light duty road to the north of the subdivision, and continue on W. Cactus Blossom Dr. and the exit the same way, I would be satisfied.

I think the bulk of the home owners in the neighbor hood feel similar, but I don't expect many to say anything.



Thanks,

Clarence Wyland  
3173 Green Park Dr.  
Benson, AZ. 85602  
Mbl # 330-289-2043

DECLARATION OF RESTRICTIONS

MESCAL LAKES UNIT III

KNOW ALL MEN BY THESE PRESENTS:

That Minnesota Title Company of Arizona, an Arizona corporation, as Trustee, being the owner of all the following described premises situated in the County of Cochise, State of Arizona, to wit:

Lots three hundred fifty-two (352) through seven hundred fourteen (714) inclusive MESCAL LAKES UNIT III, according to Plat of Record in the office of the County Recorder of Cochise County, Arizona, in Book 8 of Maps, Page 36 thereof:

In desiring to establish the nature of use and enjoyment thereof, does hereby declare said premises subject to the following expressed terms, conditions and stipulations as in the use and enjoyment thereof.

This declaration hereby establishes the plan for the individual ownership of real property estates, consisting of a lot and the improvements contained thereon. Said restrictions establishes and imposes the General Plan for the improvement and development of said property described herein, and the adoption and establishment of covenants, conditions and restrictions upon said land, and upon any and all units constructed or to be constructed thereon, and upon the use, occupancy and enjoyment thereof.

A committee consisting of the Officers of Mescal Development Company shall approve all buildings and/or mobile homes prior to construction or placement on a lot. Said committee shall exercise this approval until 75% of the lots in this unit are sold, at which time approval will revert to a committee elected by the property owners association for the owners of record of lots in MESCAL LAKES.

1. Lots numbered three hundred fifty-two (352) through seven hundred fourteen (714) shall be designated as Mobile Home Lots.

- a. All utility or storage buildings must be placed on the rear half of any lot.
- b. No mobile home shall be placed upon any lot unless and until a porch slab of the minimum dimension of ten feet (10') by forty feet (40') shall have been provided for such mobile home, and such mobile home shall be completely skirted on both sides and ends.
- c. No mobile home shall be placed upon any lot until approved in writing by the committee herein provided for as to condition, age and appearance. Any such mobile home shall have a complete sanitary facility, including but not limited to toilet, wash basin, tub or shower, kitchen sink, which sanitary facilities shall be connected to sewage facilities in accordance with the regulations of the Cochise County Health Department.

STATE OF ARIZONA }  
COUNTY OF COCHISE } SS  
WITNESS MY HAND AND OFFICIAL SEAL  
JAMES O. DIXON COUNTY RECORDER

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED AND RECORDED AT REQUEST OF: Mescal Lake Co

1017 E Camelback Rd  
Phoenix, AZ

INDEXED PHOTOGRAPHED  
FILED COMPARED

FEE \$ 82.00  
DRAFT  
SEP 5 '72 - 10 40 AM '73  
DKT. 803 PAGE 238  
PARTIAL No. 21575

- d. No travel trailers will be permitted on any lot as a residence either permanent or temporary. All permanent mobile homes must be at least 500 sq. ft. in size.
- e. No cabana, porch, additional room or storage building may be constructed on any lot having a mobile home on it unless the same shall be blended in color with the said mobile home, unless the construction of such cabana, porch, additional room or storage building shall have been approved as a separate structure by the committee herein provided for in writing prior to any construction.
- f. Not more than one single family residential mobile home shall be permitted or maintained on any lot, except that the owner of any lot shall be permitted to store on his lot a small vacation trailer provided that the same shall be placed upon the rear of the lot in such a manner that it shall not, in the opinion of the committee herein provided for, be considered detrimental to the appearance of the lot or the tract.

2. No prefabricated building or structure of any nature whatsoever, permanent or temporary, shall be moved or placed upon or assembled or otherwise maintained on any lot, unless written approval is had and obtained from Mescal Development Company or the committee herein provided for, provided however, that a temporary office, tool shed, saw shed, lumber shed and sales office may be maintained upon any lot or lots by any building contractor for the purpose of erecting and selling dwellings on any lot or lots but such temporary structures shall be removed at completion of construction or selling of dwellings, whichever is later.

3. Prior to any construction or placement of a mobile home upon any lot a proper permit must be obtained from Cochise County. All construction must be substantially complete within six (6) months of the issuance of that permit and fully completed within nine (9) months of the issuance of that permit.

4. No lots shall be resubdivided.

5. Under no circumstances shall any owner of any lot or parcel of land be permitted to deliberately alter the topographic conditions of his lot or parcel of land in any way that would permit additional quantities of water from any source, other than what nature originally intended, to flow from his property onto any adjoining property or public right of way. (EXCEPTION) The subdivision may find it necessary from time to time to alter the natural drainage of the roads so that the road system would not be damaged by excessive waters.

6. No washing machines, dryers, or other appliance shall be kept in any unenclosed area of any lot, nor shall any large machinery including but not limited to dump trucks, tractors, blades, etc., be parked on any lot. No car wrecking or rebuilding shall be performed on any lot.

7. All clothes lines, equipment, service yards, wood piles or storage piles shall be kept screened by adequate planting so as to conceal them from view of neighboring lots or streets. All rubbish, trash or garbage shall be removed from the lots on a regular basis and shall not be allowed to accumulate thereon, and shall not be burned except by use of incinerator and only during the hours so specified by the Cochise County Health Department.

8. Sewage disposal shall be affected by means of individual septic tanks, the type of tank, its construction, location on lot and tile disposal field shall be approved by Cochise County Health Department. No cesspools or outside toilets shall be permitted.

9. No swine, cows, horses or other livestock, and no poultry shall be kept upon said lots. (EXCEPTION) House pets not to exceed two (2) adults of any one species. House pets must be kept fenced or on a leash.

10. No advertising signs, for sale or rent signs, billboards, unsightly objects or nuisance shall be erected, placed or permitted to remain on any of the lots or in or on any home or mobile home on said lot in any position visible from the streets or adjoining property unless written approval is had and obtained from the committee herein provided for, nor shall the premises be used in any way or for any purpose which may endanger the health or unreasonably disturb the holder of any lot.

11. No store, office, or other place of business of any kind and no hospital, sanatorium, or other place for the care or treatment of the sick, physically or mentally, nor any theater, saloon or other place of entertainment shall be erected or permitted upon any lot, and no business of any kind or character whatsoever shall be conducted from the building located on any lot or from any lot.

12. No rear yard fence shall be constructed higher than six feet (6') and no front yard shall be constructed higher than three feet (3').

13. No building, house trailer, or improvement of any kind shall be erected on any lot nearer than 25 feet to the front lot line, nor nearer than 5 feet from the lot line on the carport side of the lot, nor nearer than 8 feet from the lot line on the structure side of the lot, nor nearer than 10 feet from the back lot line.

14. A non-profit corporation known as the Mescal Lake Property Owners Association has been incorporated under the laws of the State of Arizona.

15. In order to enable the Association to accomplish the purposes outlined within the Articles of said association, all of the property within the Mescal Lake Subdivisions is subjected to the covenants, assessments, charges, servitudes, liens, reservations and restrictions here set forth; and in order to cause the restrictions to run with the property and to be binding upon the property and the Owners thereof from and after the date of recordation of this Declaration, the Company will make all conveyances of the property subject to the restrictions herein set forth; and by accepting deeds to the property subject to the restrictions, the Owners, for themselves and their heirs, executors, administrators, successors and assigns, agree that they shall be personally bound by all of the restrictions (including but not limited to the obligation to pay assessments) here set forth.

16. In order to provide funds for the purposes and used specified in the Articles of Incorporation of the Association, the Board of Directors of the Association each year assess against each Owner a charge not to exceed \$4.00 per month per lot until December 31, 1977 and thereafter as determined by the Associations' Board of Directors. The initial assessment shall be \$2.00 per lot per month.

D.K. 803 P. 239-A

The Association shall have the right to adopt rules and regulations setting forth procedures for the purpose of billing and collecting the assessments provided herein.

17. Each lot shall be charged with and subject to a continuing servitude and lien from the date of recordation of this Declaration for the amount of the charge assessed and levied against each Lot. The lien against each such lot shall be superior to any and all other charges, liens or encumbrances which hereafter in any manner may arise or be imposed upon each such Lot.

If the Owner of any Lot fails to pay the assessment when due, the Association may enforce the payment of the Assessment Lien against the Lot by taking either or both of the following actions:

- (a) Bring an action at law against the Owner personally obligated to pay the Assessment;
- (b) Foreclose the Assessment Lien against the Lot in accordance with the then prevailing Arizona law relating to the Foreclosure of realty mortgages (including the right to recover any deficiency), and the Lot may be redeemed after foreclosure sale as provided by law.

18. The Association shall apply all funds and property collected and received by it for the common good and benefit of the Owners and Residents by devoting said funds and property, among other things, to the acquisition, construction, alteration, maintenance, provision and operation, of any and all land, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the Mescal Lake Subdivisions, which may be necessary, desirable or beneficial to the common interests of the Owners and Residents.

The following are some of the areas in which the Board may seek to aid, promote and provide for such common benefit: landscaping, recreation, communications, education, transportation, health, utilities, public services, culture and safety.

The foregoing restrictions and covenants run with the land unless the owners of 75% of the units of real property within said parcels of land by vote or other written consent change the said covenants in whole or in part, and if not so changed, shall be binding on all persons owning real property within any of said parcels for a period of twenty (20) years from September 1, 1972, at which time said covenants shall be automatically extended for successive periods of ten (10) years each. Deeds of conveyance of said property or any part thereof may contain the above restrictive covenants which shall be valid and binding upon the respective grantees. Violation of any one or more of such covenants may be restrained by any court of competent jurisdiction and damages awarded against such violator, provided, however, that a violation of these restrictive covenants or any one or more of them shall not affect the lien of any mortgage now of record, or which hereafter may be placed or recorded, upon such parcels or any part thereof.

Should any of these restrictive covenants be invalidated by law, regulation, or court decree, such invalidity of any such restrictive covenants shall in no way effect the validity of the remainder of the restrictive covenants.

IN WITNESS WHEREOF, the MINNESOTA TITLE COMPANY, an Arizona corporation, as Trustee has caused its corporate name to be signed and its corporate seal to be affixed by the undersigned officer thereunto duly authorized this 1st day of September, 1972.

MINNESOTA TITLE COMPANY, as Trustee

By *Benny Gonzales*  
Trust Officer

STATE OF ARIZONA )  
                          ) ss.  
COUNTY OF MARICOPA)

Before me this 1st day of September, 1972, personally appeared Benny Gonzales who acknowledge himself to be a Trust Officer of Minnesota Title Company, an Arizona corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation as Trustee, by himself as such officer.

My Commission Expires Feb. 4, 1975

*Anita F. ...*  
Notary Public

