



Cochise County

Development Services

Public Programs...Personal Service

MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Robert Kirschmann, Planner II
FOR: Daniel Coxworth, AICP, Development Director
SUBJECT: Docket Z-20-09 and SU-20-07 (Allen's Well)
DATE: August 28, 2020, for the September 9, 2020 Meeting

APPLICATION FOR A SPECIAL USE AUTHORIZATION

The applicant requests a Rezoning from SR-22 to RU-2 and Special Use Authorization to legitimize an existing well drilling business, which includes an existing approximately 4,440 shop (used for both personal and business), approximately 5,000 square feet of outdoor storage, and a 2,500-gallon private diesel fuel tank.

The area includes five parcels, 116-19-316-320, totaling approximately 4.3 acres. The applicants are Mr. and Mrs. Allen.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 4.3 acres
 Current Zoning: SR-22 (Single Residential; one dwelling per 22,000 square feet)
 Proposed Zoning: RU-2 (Rural; one dwelling per 2 acres)
 Growth Area: Category B
 Comprehensive Plan Designation: High Density Residential
 Area Plan: Mid Sulphur Springs Valley Community Plan
 Existing Uses: Single family home and shop
 Proposed Uses: Same

Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	SR-22	Vacant
South	SR-22	Vacant/grazing
East	SR-12	Church, residential neighborhood/Agriculture
West	SR-22	Vacant land

II. PARCEL HISTORY

2019 Shop/garage/right-of-way
 2003 Single Family Home

Planning, Zoning and Building Safety

1415 Melody Lane, Building F
 Bisbee, Arizona 85603
 520-432-9300
 520-432-9278 fax
 planningandzoning@cochise.az.gov

III. NATURE OF REQUEST

Code Compliance Staff received a staff initiated a complaint that the applicant was running a business from the location. These applications are intended to legitimize the existing business.

The applicant requests a Rezoning from SR-22 to RU-2 and Special Use Authorization to legitimize an existing well drilling business, which includes an existing approximately 4,440 shop (used for both personal and business), approximately 5,000 square feet of outdoor storage, and a 2,500-gallon private diesel fuel tank.



The applicant has been conducting business at the location for a few years. There are no physical changes proposed as a result of the Rezoning or Special Use. The shop and carport area are primarily personal use as the applicant is an off-road enthusiast. As seen in the photograph below, the vast majority is not related to the request, however, on occasion, well drilling rigs will be brought to the location and basic maintenance performed. In addition, there is outdoor storage of personal vehicles, parts, and approximately 5,000 square foot area for pipe lay down behind the shop. Looking from Treasure and Lansing Roads, the shop, personal vehicles, the existing gas tanks, and residence are not highly visible due to the existing home, landscaping, and distance.



IV. 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 “B” High-Density Residential. The parcels are located within the Mid-Sulphur Springs Valley Community Plan, which encourages cottage industries which harmonize with the residential character. These parcels are located just outside the developed Village. The area surrounding the rezoning is largely vacant, undeveloped land. See the area map above.

Compliance with Rezoning Criteria

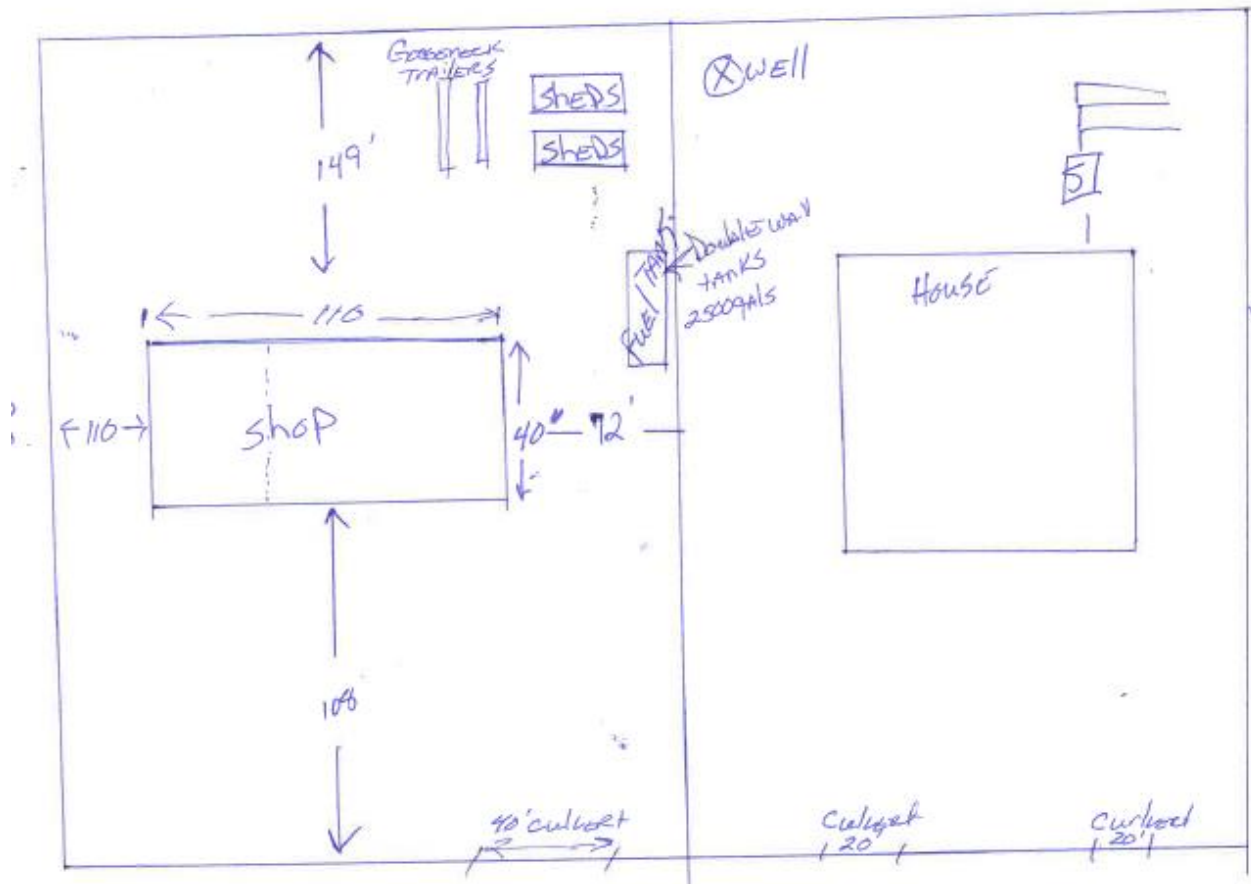
Section 2208.03 of the Zoning Regulations provides fifteen criteria used to evaluate rezoning requests. Thirteen (13) of the criteria are applicable to this request. Eleven (11) are met as presented, one (1) is met with the modification, one(1) partially compiles, and two (2) are not applicable.

1. Provides an Adequate Land Use/Concept Plan: Complies

The applicant has provided a site plan which depicts how the site is currently configured. There are no changes proposed as a result of the requests. The site provides adequate parking, setbacks, and dust control measures. There is no screening; however, in a rural area such as this, the screening may be more obtrusive than the use. Staff would recommend that the use be treated as residential, and no additional improvements are required.

2. Compliance with Applicable Site Development Standards: Complies with modification

The



parcel is large enough to comply with all development regulations. As previously mentioned, no changes to the site are proposed, and therefore staff is not recommending any additional changes to the site and treating the use as residential.

3. Adjacent Districts Remain Capable of Development: Complies

The parcels located all around are zoned SR. The area is primarily one-acre lots. The vast majority of the surrounding parcels are vacant, and a large number are available for back taxes. The continuation of this use would not prevent the development of the surrounding properties.

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

The parcel is located west of the established Village in a rural area with very scattered single-family homes. The shop and use already exists and is compatible with surrounding development.



6. Rezoning to More Intense Districts: Not applicable

The proposed rezoning is a downzoning, and this criteria is not applicable

7. Adequate Services and Infrastructure: Complies

The property already has all infrastructure

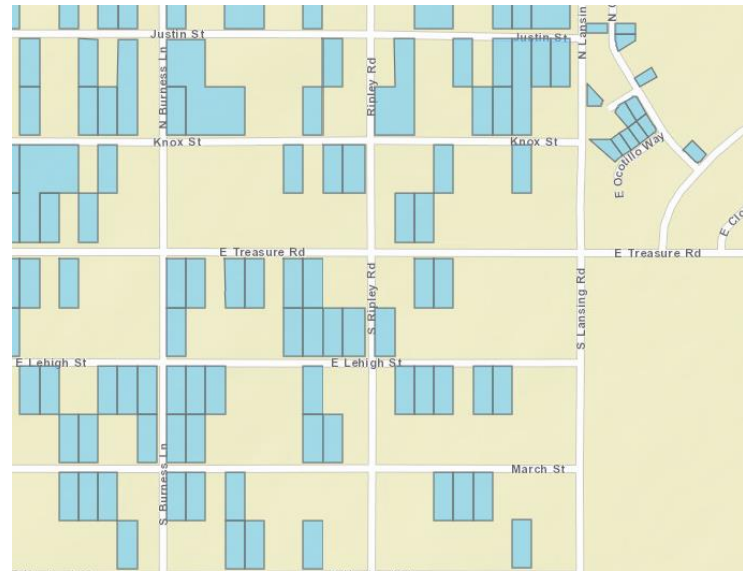
required for the use.

8. Traffic Circulation Criteria: Complies

The use has been in operation for a few years. Staff has not received any complaints from surrounding residents on the use, including traffic.

9. Development Along Major Streets: Complies

The parcels have existing access and culverts on Treasure Road that were constructed when the buildings were originally permitted for residential uses. No changes or modifications have been requested as a result of the applications.



10. Infill: Not applicable

This Factor applies only for rezoning requests to General Business, Light Industry, or Heavy Industry.

11. Unique Topographic Features: Complies

The parcel is flat with no significant washes occurring on-site and is designated as FEMA Zone X, outside Flood hazard areas.

12. Water Conservation: Complies

The home has water service through an existing well. There is no water in the shop, no customers, and therefore the water is similar to residential use.

13. Public Input: Complies

Staff mailed notices to neighboring property owners within 1,000 feet of the subject property on August 13, 2020. Staff posted the property on August 25, 2020, and published a legal notice in the Herald/Review August 23, 2020.

As of the writing of the Staff report, we have received three letters in support and two letters in opposition. The comments from the surrounding property owners expressed concerns about having a commercial use in a residential area.

14. Hazardous Materials: Complies

The Sunsites Fire District occasionally uses the existing fuel tanks. They were included on the transmittal and provided no comments on the request. Additionally, the tanks are all required to be certified by the State.

15. Compliance with Area Plan: Partially Complies

The rezoning is located within the Mid Sulphur Springs Valley Community Plan. These parcels are located just outside the Village are designated as high-density residential. The area plan states that these lots average 12,000 square feet or less. Today, the lot sizes are 37,000 square feet and do not comply with that requirement. These five parcels were developed as one residential property with a shop. This is typical of what staff is seeing in these large lot areas in Sunsites. Finally, the area plan does encourage cottage industries compatible with residential development. This use has been here for several years, and there have not been any neighbor complaints. The RU-2 Zoning designation is more compatible with current trends in this area.

V. 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, ten (10) factors apply to this request. The project, as submitted, fully complies with eight (8) of the factors. With the recommended modifications, the project complies with one (1) additional factors. One (1) factor partially complies.

1. Compliance with Duly Adopted Plans: Complies

As discussed under the rezoning portion of the request partially complies with the



Area Plan. When the "B-High Density Residential" designation was placed on these lots outside the Village, they instantly did not comply as the lots are 37,000, and the lot size should be less than 12,000. The existing use does not change the overall character of the neighborhood.

2. Compliance with the Zoning District Purpose Statement: Complies

If the requested rezoning is approved, the use continues the character of low-density housing and agricultural uses outside the Village. The application complies with two purpose statements in Article 6 by preserving the "Rural" character of the area; and by providing a non-residential service that is compatible with rural living.

3. Development along Major Streets: Complies

The parcels have existing access and culverts on Treasure Road that were constructed when the buildings were originated permitted for residential uses. No changes or modifications have been requested as a result of the applications.

4. Traffic Circulation Factors: Complies

The use is existing and is not having any impacts on the surrounding neighbors. No customers are coming to the site or employees other than immediate family members. Engineering reviewed the project and had no comments on the request.

5. Adequate Services and Infrastructure: Complies

The property already has all infrastructure required for the use.

6. Significant Site Development Standards: Complies with modifications

Staff is recommending that since this use has existed for a few years and the only complaint received was from a staff member, that the site be allowed to continue as currently laid out and considered a residential use for the purposes of the site development standards. The site already has dustproof material on the drive way and parking areas, adequate off-street parking, and outdoor lighting complies with the Lighting Regulations. There is no screening, and staff does not recommend this being required. The majority of the activity takes place behind the building and is not visible. Additionally, the screening could be more obtrusive than existing conditions.





7.

Public Input: Complies

The applicant mailed letters to property owners within 1,000 feet of the property prior to application submittal and received no feedback.

The Planning Department mailed letters to the same property owners within 1,000 feet of the subject property, published a legal ad in the *Sierra Vista Herald*, and posted legal notices on the property. To date, staff has received three (3) letters in support and two (2) in opposition.

The issues raised include:

- Concern of a business in a residentially zoned area (noise, dust, and pollution)
- Concern over view



8. Hazardous Materials: Complies

The existing fuel tanks are occasional used by the Sunsites Fire District. They were included on the transmittal and provided no comments on the request. Additionally, the tanks are all required to be certified by the State.

9. Off-Site Impacts: Complies

The major off-site impacts could include odor, lighting, and site visibility, as discussed above. However, the shop and property are primarily for residential uses, and there have been no complaints received as a result of the business operation from neighbors.

10. Water Conservation: Complies

The home and show have water service through an existing well. There is no water in the shop, no customers, and therefore the water is similar to a residential use.



VI. PUBLIC COMMENT

Staff mailed notices to neighboring property owners within 1,000 feet of the subject property on August 13, 2020. Staff posted the property on August 25, 2020, and published a legal notice in the Herald/Review August 23, 2020.

As of the writing of the Staff report, we have received three letters in support and two letters in opposition. The comments from the surrounding property owners are express concerns about having a commercial use in a residential area.

VII. WAIVERS

Since there have been no neighbor concerns previously on the use, staff recommends continuing to require only residential standards for the site.

VII. SUMMARY AND CONCLUSION

This request is for a Rezoning and a Special Use authorization to legitimize an existing well drilling business.

Factors in Favor of Approval of the Rezoning

1. The request complies with eleven of the applicable Rezoning factors used by staff to analyze this request;
2. The request would be in keeping with the character of the existing development in the area;
3. Three letters of support were received
4. The business has existed at this location for a few years, and no complaint has been received.

Factors Against Approval

1. Two letters in opposition were received;
2. The request only partially complies with one Factor.

Factors in Favor of Approving the Special Use

1. With the recommended Conditions of Approval, the proposed use would fully comply with eight of the ten Special Use factors used by staff to analyze this request and would comply with two additional factors if the Conditions of approval are met;
2. The proposal would have the same visual impact as today, no changes are proposed
3. Three letters in support were received

Factors Against Allowing the Special Use

1. The Planning Department has received two letters in opposition to the request;
2. The request only partially complies with one Factor.

VIII. RECOMMENDATION

Based on the factors in favor of approval, staff recommends **Approval** of the Rezoning and Special Use request.

Should the Commission approve the Applications, staff recommends the following Conditions:

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 apply 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;

Sample Motion:

Mr. Chairman, I move to recommend approval to the Board of Supervisors Rezoning, Z-20-09 (Allen's Well) located on parcels 116-19-316-320, with the Conditions of Approval recommended by staff; the Factors in Favor of Approval constituting the Findings of Fact.

Mr. Chairman, I move to approve Special Use Docket SU-20-08 (Allen's Well), located on parcels 116-19-316-320, with the Conditions of Approval recommended by staff; the Factors in Favor of Approval constituting the Findings of Fact.