



# Cochise County Development Services

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## MEMORANDUM

**TO:** Cochise County Planning and Zoning Commission  
**FROM:** Robert Kirschmann, Planner II  
**FOR:** Daniel Coxworth, AICP, Development Services Director  
**SUBJECT:** Docket Z-20-06 (Panesar)  
**DATE:** May 18, 2020 for the June 10, 2020 Meeting

## APPLICATION FOR A REZONING

The Applicant requests a rezoning to Light Industry. The purpose of the rezoning is to facilitate a truck stop that will include an approximately 4,000 square foot convenience store, 4 passenger vehicle pumps, 4 diesel truck pumps, shower and restroom facilities and truck parking.

The subject parcel is APN 407-34-037 and is located on the west side of Highway 191 between mile post 5 and 6. It is further described as being situated in Section 15 of Township 23 South, Range 27 East of the G&SRB&M, in Cochise County, Arizona. The Applicant is Mr. Rupinder Panesar.

## I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 39.33 acres  
Current Zoning: RU-4 (Rural, one dwelling per four acres)  
Proposed Zoning: LI (Light Industry)  
Growth Area: D – Rural Areas  
Proposed Growth Area  
(Under Docket CP-20-01): C-Rural Community Areas  
Plan Designation: Rural  
Plan Designation  
(Under Docket CP-20-01): Developing  
Area Plan: None  
Existing Uses: Vacant property  
Proposed Uses: Truckstop

### Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Vacant land
South	RU-4	Vacant land
East	RU-4	Vacant land
West	RU-4	Vacant land

#### **Planning, Zoning and Building Safety**

1415 Melody Lane, Building E  
Bisbee, Arizona 85603  
520-432-9300  
520-432-9278 fax  
1-877-777-7958  
planningandzoning@cochise.az.gov

#### **Highway and Floodplain**

1415 Melody Lane, Building F  
Bisbee, Arizona 85603  
520-432-9300  
520-432-9337 fax  
1-800-752-3745  
highway@cochise.az.gov  
floodplain@cochise.az.gov

**II. PARCEL HISTORY**

None

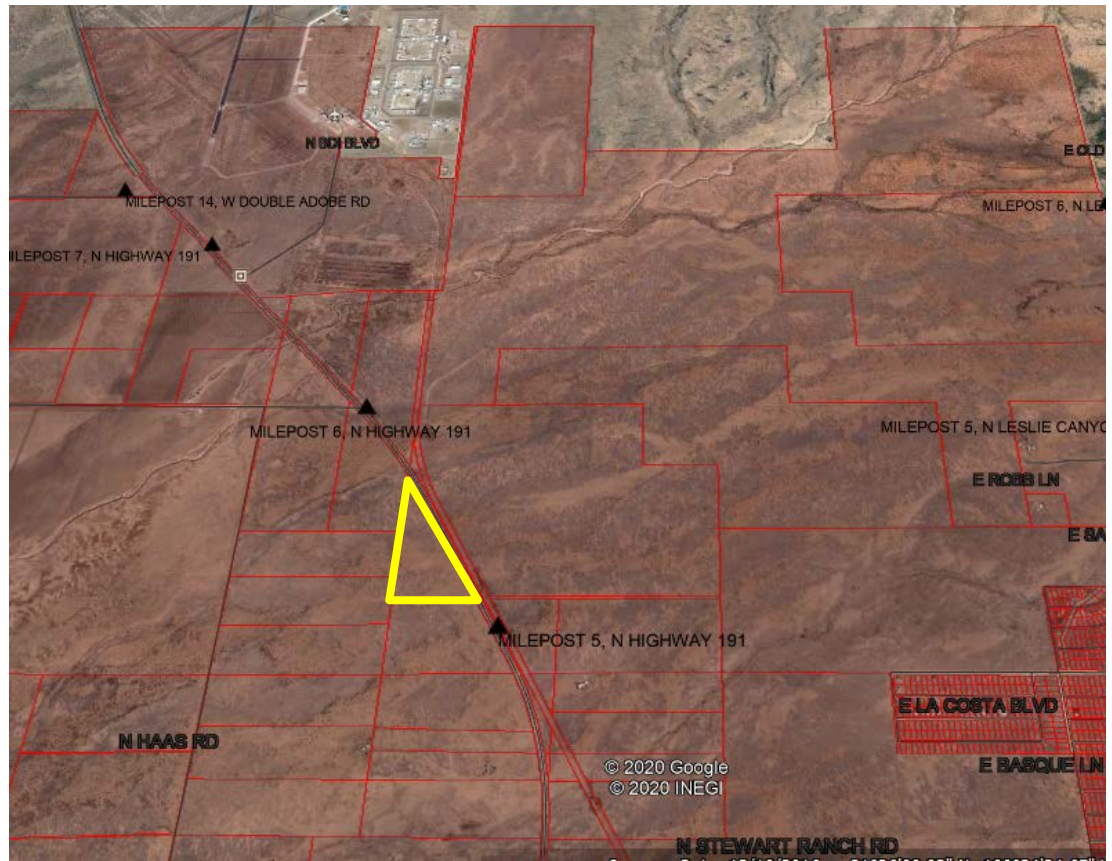
**III. NATURE OF REQUEST**

The Applicants are requesting to amend the zoning of their parcel from RU-4 to LI. The purpose of the rezoning is to facilitate a truck stop that will include an approximately 4,000 square foot convenience store, 4 passenger vehicle pumps, 4 diesel truck pumps, shower and restroom facilities and truck parking.

Originally, the applicant submitted a rezoning request to Heavy Industry after discussing their plans for the site. The comprehensive plan in the area is D-Rural. The only zoning designation that would allow a truck stop was Heavy Industrial. A truck stop is not a heavy industrial use, but this was the only option available to the applicant and staff at the time. After the Applicant formally submitted their application Staff had a much more detailed conversation and took a more comprehensive look at the area. With the location between the Bisbee-Douglas International Airport, the city of Douglas and the International Border (near the new port of entry), location on 191 with access to Interstate 10 staff believes that the area has potential to provide future growth and development.

It is important to note, that rezoning the property to Light Industry would allow all uses listed on the parcel. However, permits would be required, and Staff would ensure that the development meets the requirements provided in the Development Code.

The area is largely vacant with a few widely scattered single family homes, Bisbee-Douglas International Airport, prison, and agriculture.



**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 “D” Rural Area. The Category D designation permits rezoning to Heavy Industry (HI) but not Light Industry. The Applicant originally requested the Hi, but after Staff evaluated the request, we felt that the Heavy Designation was not appropriate. Staff decided that this corridor



would be appropriate to propose a County initiated Comprehensive Plan Change due to the following factors:

- Recent developer inquiries, like rezoning or special use requests
- Presence of large parcels
- Undeveloped areas
- Proximity to incorporated areas and urban services
- Highway access and/or major roadway intersections
- Airport access
- Major employer presence
- Proximity to International ports of entry
- Availability of geographically-development incentives (such as opportunity zones and foreign trade zones)

The Comprehensive Plan designation is proposed to be changed to C-Rural Community Area which would allow for the LI Zoning Designation. If the Comprehensive Plan Docket, CP-20-01 is denied, then this rezoning request cannot be approved.

**Compliance with Rezoning Criteria**

Section 2208.03 of the Zoning Regulations provides fifteen criteria used to evaluate rezoning requests. Fourteen of the criteria are applicable to this request. Four criteria are met as presented, nine are met with conditions and one does not comply.

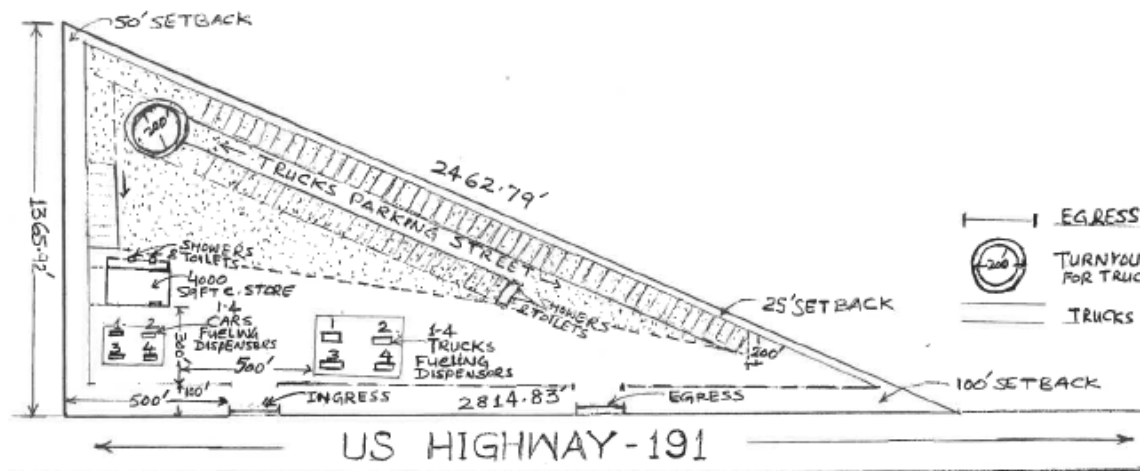
**1. Provides an Adequate Land Use/Concept Plan: Complies with Conditions**

The Applicant provided a conceptual site plan depicting two gas islands each containing four double sided pumps. One of these will be for passenger vehicles and the other for semi-trucks. There is also an approximately 4,000 square convenience store, with restrooms and showers. The rear of the site is used for truck parking and will have a separate building including showers and toilets for the truckers. The LI setbacks are as follows: *B. For those LI Zoning Districts which abut RU, R, SR, SM, NB or MR Zoning Districts the setback shall be a minimum of 80-feet and 20-feet from any road travel way.* The surrounding parcels are all currently zoned RU-4. Therefore, setbacks need to be 80 feet on the south and west and 100 feet from Highway 191. When the permits are submitted the site plan will need to be revised to comply with all development standards including setbacks.

**2. Compliance with Applicable Site Development Standards: Complies with conditions**

The 39.33 acre site is triangular shape which provides both opportunities and constraints. Although the site is not encumbered by designated floodplain there are still some drainages on the site that will need to be addressed. This northern triangle of the site could be used to retain or detain water.

Though the site plan, does not currently comply with the development setbacks, the parcel is large enough to accommodate the proposed development. Compliance with all development standards will be demonstrated on the constrained by a wash on the north and King Street which bisects the rezoning. The applicant will be working with the right-of-way department to abandon a portion of the road, while



maintain access to surrounding parcels. Even with the constraints there is adequate room for the applicant to meet the development standards (setbacks, height, etc.) which will be verified at permit submittal.

### **3. Adjacent Districts Remain Capable of Development: Complies**

The site and required setbacks are large enough to allow development on adjacent parcel. The setbacks are large enough (80'/100') to provide adequate distancing of the use from adjoining properties. Additionally, Docket CP-20-01 seeks to change the comprehensive plan designation in the general area allowing for additional rezoning and development opportunities.

### **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 with conditions**

The parcel is located in a rural area with very scattered single family homes on larger lots. Due to the recent interest in the area, proximity to the airport, highways, prison and new port of entry staff believes that the area may be in a position to change in the future. As previously mentioned, this is why Staff has proposed the Comprehensive Plan Amendment for the corridor between the Bisbee-Douglas Airport and the City of Douglas. Though today the use may seem out of place, it is likely that the area will experience growth in the future.

Staff met with a few of the neighbors who expressed concerns on several issues including:

- Increase in traffic/circulation
- Water usage
- Sewage
- Drainage/pollution to waterways
- Noise
- Lights

Staff understands the concerns, and these will be address throughout this document.

### **6. Rezoning to More Intense Districts: Complies with conditions**

The proposed rezoning is in an area where the County sees future growth opportunities. However, in this transition period it is important that the use is mitigated reduce the impacts to surrounding properties to the greatest extent possible. The required setbacks by the zoning district (80 feet sides/100 street) provides a large buffer area. Additionally, the zoning regulations require a minimum of a six foot high block wall surrounding the proposed use. Typically, staff recommends a waiver to this requirement as a wall can be more obvious than the use. In this case staff believes the wall is appropriate. The wall will visually screen the site and provide noise buffering. Typically, landscaping is not required in Category C areas, however because of the potential impacts of light, noise, and visual appearance staff is recommending a condition that drought tolerant landscaping consisting of trees, shrubs and ground covers be planted around the perimeter of the site to help screen and soften the impact to the surrounding properties.

### **7. Adequate Services and Infrastructure: Complies with conditions**

The rezoning is proposing a conceptual use at this time. Due to the location on Highway 191 ADOT has reviewed the proposal. ADOT is requiring a traffic statement be prepared for the development in conjunction with permit submittal. The Developer will be required to obtain an encroachment permit from ADOT. The traffic study is required to be completed prior to any permits being issued and any improvements specified in the study completed prior to a Certificate of Occupancy being issued.

### **8. Traffic Circulation Criteria: Complies with conditions**

This rezoning request will not alter the layout or function of the existing roadway network however it will generate additional traffic in the area. As mentioned above, ADOT is requiring a traffic statement to address the issues a project of this type will have on the Highway. The project site will not access any County maintained roadways. There is a driveway located

approximately 1,500 south of the site on the east side of the highway. The property owners have requested that the traffic study take these driveways into consideration so that the driveway can be safely accessed if the project is constructed. ADOT, stated that the applicant will be required to follow standard ADOT protocols in the preparation of the study.

#### **9. Development Along Major Streets: Complies**

The parcel proposes direct access to Highway 191. This route connects State Route 80 in Douglas to Interstate 10 near Willcox. With the new port of entry, it is expected that traffic will continue to increase along this route.

One entrance and one exit are currently show on the site plan. The traffic statement will evaluate the proposed access points and make necessary recommendations.

#### **10. Infill: Does not comply**

The proposed rezoning is not located in an enterprise designation. In fact, today the designation is rural. The Comprehensive Plan amendment is proposing to change this designation to developing. The area is largely rural vacant land with a few homes, the prison and the Bisbee-Douglas airport. This project is not infill. However, as discussed in above, Staff anticipates growth in the in this area in the future.

#### **11. Unique Topographic Features: Complies with condition**

The parcel is relatively flat with no significant washes occurring on site, nor is it located in a designated floodplain. The site sits below the grade of Highway 191 and is subject to ponding of water, particularly on the northern area. In conjunction with the permit submittal the applicant shall provide a drainage analysis. The Floodplain Department has recommended the following conditions: *A Drainage Analysis depicting existing and future site conditions, including a detention/retention basin if needed and existing and future Grading Plans, all prepared by an Arizona Registered Civil Engineer*, which is included in the recommendation.

#### **12. Water Conservation: Complies with conditions**

There is currently no water service in the area. The applicant is intending to drill a well to provide water to the project. Staff shares some of the neighbors' concerns regarding water use. In order to reduce the impacts to water, staff is recommending a condition prohibiting a vehicle or truck wash on the site. Additionally, any landscaping shall be drought tolerant and not require regular irrigation.

#### **13. Public Input: Complies with Conditions**

Staff mailed notices to neighboring property owners within one mile of the subject property on April 7, 2020 . Staff posted the property on April 23, 2020 and published a legal notice in the Herald/Review April 24, 2020.

As of the writing of the Staff report we have received one letter in opposition and one in support. Staff met with the neighbor that is in opposition and their neighbor. They expressed concerns about the increase in traffic/circulation, water usage, sewage, drainage/pollution to waterways, noise and lighting. Though it is not possible to mitigate every concern, staff has included conditions in an effort to help reduce the impacts.

#### **14. Hazardous Materials: Complies**

The fuel will be stored in State approved and inspected containers. No other hazardous materials are expected to be onsite.

#### **15. Compliance with Area Plan: Not applicable**

The rezoning is not located in an area plan.

### **V. PUBLIC COMMENT**

In response to County mailings, the Planning Department has received one response in support, and one in opposition which are included in the packet.

## **VI. SUMMARY AND CONCLUSION**

The request is for a rezoning, from RU-4 (Rural; one dwelling per 4 acres), to LI (Light Industry) on a 39.33-acre site located north of Douglas. At this time, the area is characterized by open expanses and widely scattered residential development, agriculture, the prison and Bisbee-Douglas Airport. The purpose of the rezoning is to facilitate a truck stop that will include an approximately 4,000 square foot convenience store, 4 passenger vehicle pumps, 4 diesel truck pumps, shower and restroom facilities and truck parking.

### **Factors in Favor of Approval**

1. The request complies with nine of the applicable Rezoning factors used by Staff to analyze this request;
2. With the recommended Conditions the request would provide additional economic benefits to the county and surrounding area;
3. The rezoning could help initiate growth and development around the Bisbee-Douglas Airport and along the Highway 191 corridor.
4. The parcel is located within an Opportunity Zone.
5. One letter of support has been received.

### **Factors Against Approval**

1. One letter in opposition was received;
2. The request does not comply with one factor.
3. The rezoning could lead to increase in traffic, noise, lighting, in the area primarily due to the rural nature of the area.

## **VII. RECOMMENDATION**

Based on the factors in favor of approval, Staff recommends forwarding the request for a rezoning, from RU-4 (Rural; one dwelling per four acres) to LI (Light Industrial) on one parcel totaling 39.33 acres to the Board of Supervisors with a recommendation of **Conditional Approval**, subject to the following Conditions:

1. The Applicant shall provide the County with 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 property within thirty (30) days of Board of Supervisors approval of the rezoning; and
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. With permit submittal, the applicant shall provide a detailed site plan showing compliance with all development standards including but not limited to setbacks, parking, driveways and materials.
4. The applicant shall obtain an ADOT encroachment to access the State Highway (<https://azdot.gov/business/permits/encroachment-permits>)
5. With the permit submittal the applicant shall provide a traffic statement, prepared to ADOT specifications (<https://azdot.gov/sites/default/files/2019/05/tgp0240-2015-06.pdf>).
6. There shall be no car or truck wash located on the property.
7. The setback areas shall provide drought tolerant trees, shrubs and groundcover of sufficient size in the setback areas to provide softening of the use.