



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-20-11 (Andasola)
DATE: October 5, 2020 for the October 14, 2020 Meeting

APPLICATION FOR A REZONING

The Applicants are requesting a Rezoning from SR-43 (Single Household Residential, one dwelling per 43,000 square feet) to RU-4 (Rural, one dwelling per 4 acres). The subject property is located on northeast corner of N. Cochise Stronghold Road and W. Kelvin and is identified as APN 119-02-214B. The Applicants are Mr. and Mrs. Andasola.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 4.43 acres
Current Zoning: SR-43 (Single Household Residential; one dwelling per 43,000 square feet)
Proposed Zoning: RU-4 (Rural; one dwelling per 4 acres)
Growth Area: D – Rural Areas
Plan Designation: Agriculture/Green space
Area Plan: Mid Sulphur Springs Valley Community Plan
Existing Uses: Vacant lot with concrete slab, connex box and electric meter. No permits.
Proposed Uses: Single Family residential

Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	SR-43	Vacant Land
South	SR-43	Vacant Land
East	SR-43	Vacant Land
West	RU-4	Existing SFR/orchard

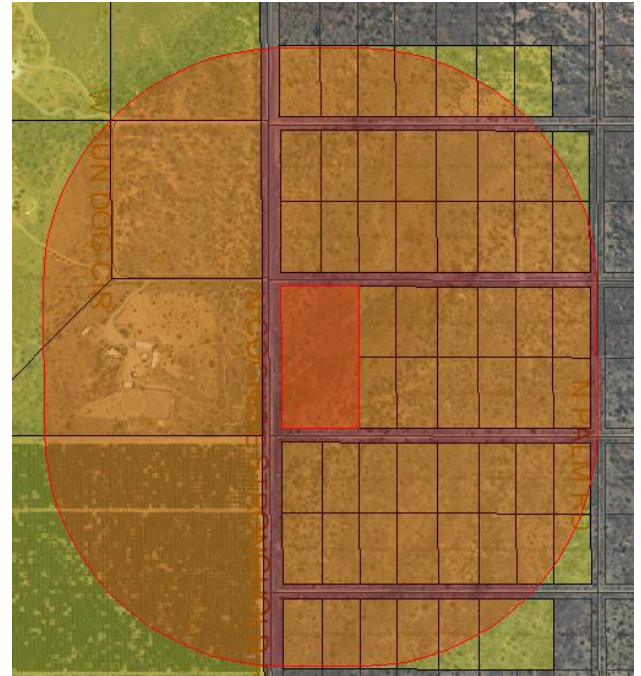
Planning, Zoning and Building Safety
1415 Melody Lane, Building F
Bisbee, Arizona 85603
520-432-9300
520-432-9278 fax
planningandzoning@cochise.az.gov

II. PARCEL HISTORY

2019 Septiconly

III. NATURE OF REQUEST

The Applicants are requesting to amend the zoning of their parcels from SR-43 to RU-4. The applicants have installed a connex box and electric meter without permits. In 2019 the applicants applied for a septic permit for a future residence. No permits other than septic have been received. Code enforcement received a neighbor complaint about the applicants camping on the property. The applicants wish to opt-out on the home and would like to rezone to RU-4. Staff discusses the option of SR-174, however the connex box would be required to be removed until a permit was applied for the residence. The site is located in a flood zone, which provides additional concern to Staff.



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 Comprehensive Plan allows for rezoning to RU-4. The Mid Sulphur Springs Valley Community Plan designated this area as Green space/ agricultural which states that lots should be equal to or greater than 4 acres. This lot is 4.43 acres.

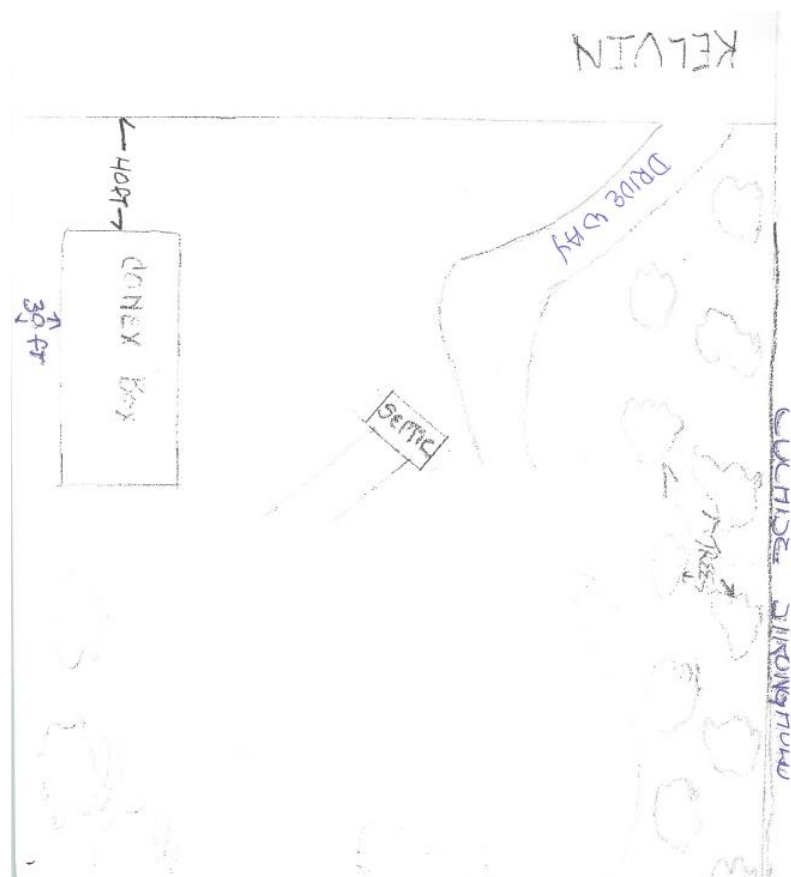
Compliance with Rezoning Criteria

Section 2208.03 of the Zoning Regulations provides fifteen criteria used to evaluate rezoning requests. Thirteen of the criteria are applicable to this request. Eight criteria are met as presented, two complies with recommended conditions, two do not comply and one partially complies.

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

The site plan provided causes some concern for staff. The site plan only shows the connex box, driveway and permitted septic. This is the current setup where the applicants park a recreational vehicle and camp on the property. The site plan does not show a future residence as is required to stay in a recreational vehicle. Should the rezoning be approved, staff is recommending two conditions of approval. One is within six months of the approval of the rezoning the applicants shall obtain a permit for a residence on the property. The second condition is that the applicants shall provide a site plan meeting the minimum standards for a building permit. This includes showing all utilities (current plan does not include electric meter), drainage courses, water flow, etc.

2. Compliance with Applicable Site Development Standards: Does not comply





Today the site does not comply. This rezoning is a result of Code Compliance action. The applications applied for a septic permit in October 2019. The permit was clearly conditioned:

1. Must obtain permit for site built house and accessory structure(s)
2. Cannot opt out of building code due to zoning.

Despite these conditions, the applicant proceed to install a connex box on the property, with no floodplain review and install an electric meter to power the recreational vehicle. The SR Zoning does not allow for accessory structures to be installed without a primary use (residence).

Should the rezoning be approved, and

the applicant obtains the opt-out/floodplain use permits for the residence/accessory structure(s) then the site would comply.

3. Adjacent Districts Remain Capable of Development: Complies

The surrounding lots remain capable of development. Lots to the west of Cochise Stronghold road are zoned RU-4 and consist of rural residential and agricultural. The lots to the north, south and east are all zoned SR-43 and should still be developed as such. It should be noted that the one acre lots in this area are difficult to developed due to the distance requirements of septic and well distances.

4. Limitation on Creation of Nonconforming Uses: Complies

The proposed rezoning will not result in the creation of non-conforming uses.

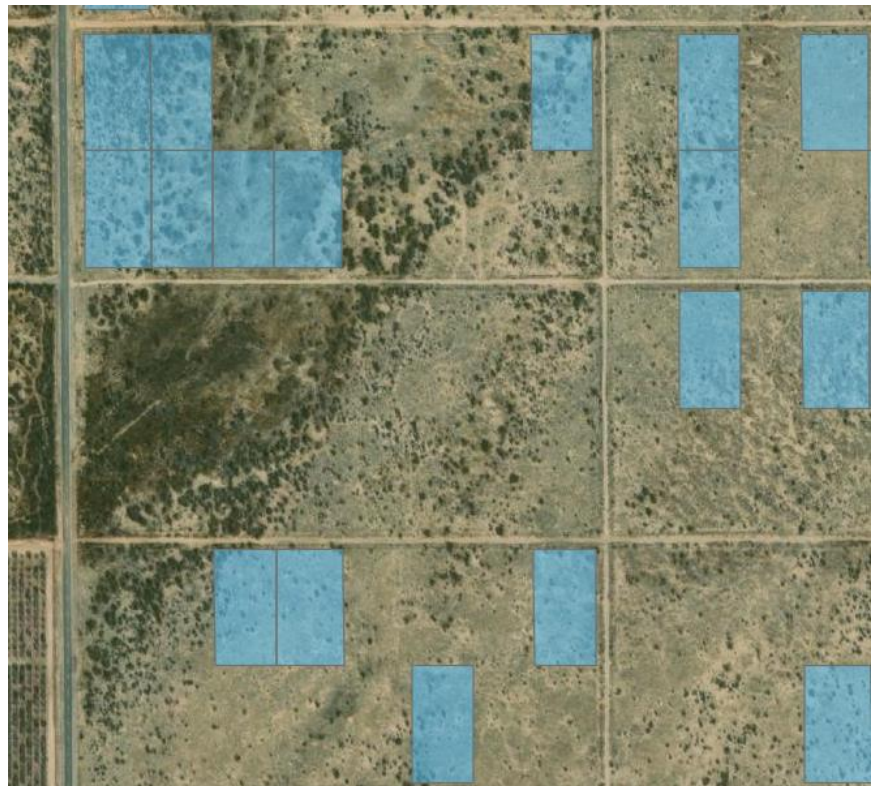
5. Compatibility with Existing Development: Complies

The subdivision where the lot is located is largely vacant, even roads are not developed or street signs in place. A lot of lots in this area are either up for tax liens or have been purchased with the goal of merging multi lots together and rezoned to be able to opt-out of the building code.

6. Rezoning to More Intense Districts: Not applicable

The request is for a down zoning.

7. Adequate Services and Infrastructure: Complies



The parcel has a permit for a septic tank and electric is already installed on the site. Additional improvements will be required for the driveway to Cochise Stronghold Road and flood control.

8. Traffic Circulation Criteria: Complies

This rezoning request will not alter the layout or function of the existing roadway network and will not require right-of-way dedication. The downzoning, if approved would result in less traffic than if developed at current zoning.

9. Development Along Major Streets: Complies with condition

The parcel is located on Cochise Stronghold Road between James and Kelvin Streets. The streets are not marked or well defined. Access will likely continue to be off Kelvin and the right-of-way



department may require improvements as part of the opt-out permit. A condition of approval is included, to make it clear to the applicant the improvements may be necessary to the existing driveway/ approach on Cochise Stronghold Road.

10. Infill: Not Applicable

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

11. Unique Topographic Features: Does not comply

The site is relatively flat; however, the entire parcel is located within a FEMA Flood Zone. All improvements need to be reviewed and approved by the Floodplain Department including the connex box placed without benefit of a permit.

12. Water Conservation: Complies

The proposal is for a reduction in the number of residences that can be constructed and will reduce the use.

13. Public Input: Complies

Staff posted the property on September 18, 2020 and published a legal notice in the Herald/Review September 20, 2020. Three responses in support were received and none in support.

14. Hazardous Materials: Not Applicable

No hazardous materials are proposed.

15. Compliance with Area Plan, Master Development Plan or Comprehensive plan policies: Partially Complies

The parcels are located within the Mid Sulphur Springs Valley Community Plan. This area is designated as Agriculture/ Green space with lots of 4 acres or greater. This proposal is consistent with that. Though, there is RU-4 west of Cochise

Stronghold Road there is no contiguous RU-4 Zoning to this parcel. Section 102, Goal 3, policy g of the Comprehensive Plan states *Small, isolated rezonings, also known as "spot zonings," should be discouraged.*

V. PUBLIC COMMENT

In response to County mailings, the Planning Department has received three responses in support which are included in the packet.



VI. SUMMARY AND CONCLUSION

The request is for a downzoning, from SR-43 (Single Household Residential; one dwelling per 43,000 square feet), to RU-4 (Rural; one dwelling per four acres) on 4.43 acres outside of Sunsites. Staff is recommending denial of the request due to the spot zoning of the request, violation of the Zoning Regulations, inadequate site plan, lack of intent to obtain appropriate permits including but not limited to right-of-way, floodplain, and opt-out permits.

Factors in Favor of Approval

1. The request complies with eight the applicable Rezoning factors used by Staff to analyze this request;
2. Three letters in support of the request have been received.

Factors Against Approval

This rezoning is the result of code compliance action;

The request is a spot zoning;

3. Despite conditions listed on septic permit, a connex box, electric pedestal and concrete slab were installed without benefit of permits.
4. The rezoning does not comply with two Rezoning factors and only partial complies with one other.

VII. RECOMMENDATION

Based on the factors in favor of approval, Staff recommends forwarding the request for a rezoning, from SR-43 (Single Residential; one dwelling per 43,000 square feet), to RU-4 (Rural; one dwelling per four acres) on a parcel totaling 4.43 acres outside Sunsites to the Board of Supervisors with a recommendation of denial. Should the Commission determine to recommend approval, the following Conditions should be included.:

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. Within six (6) months of the Board of Supervisors approval the applicant shall submit permits for the home (opt-out), right-of-way and floodplain.
4. Site plan submitted with the Opt-Out permit shall comply with minimum standards.