



# 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-20-12 (Husarek)  
**DATE:** October 6, 2020 for the October 14, 2020 Meeting

### APPLICATION FOR A REZONING

The Applicants are requesting a Rezoning from R-36 (Residential, one dwelling per 36,000 square feet) to RU-4 (Rural, one dwelling per 4 acres). The subject property is located on East Lois Lane and is identified as APN 405-77-020B. The Applicant is Mr. Adam Husarek.

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

Parcel Size: 13.12 acres  
Current Zoning: R-36 (Residential; one dwelling per 36,000 square feet)  
Proposed Zoning: RU-4 (Rural; one dwelling per 4 acres)  
Growth Area: D – Rural Areas  
Plan Designation: Rural  
Area Plan: None  
Existing Uses: Vacant Property, storage buildings  
Proposed Uses: Single Family Residential

### Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	R-36	Vacant land
South	R-36	Vacant land
East	R-36	Single family residence
West	RU-4	Vacant land

### **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**

None

## **III. NATURE OF REQUEST**

The Applicants are requesting to amend the zoning of their parcel from R-36 to RU-4. This will preserve the open space and permit the use of the Owner-Builder opt Out Amendment to the Cochise County Building Code on a 4.8 acre parcel.

The terrain in area is rugged and largely vacant with a few scattered single familyhomes. Most properties in the area exceed 10 acres and with the area topography, flood zones and existing development patterns the R-36 designation does not make sense. Parcels located to the west, across Bruno Road, where the terrain is even more rugged are zoned RU-4. A down zoning will not have any negative impacts on the surrounding properties.

### **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 rezoning is located in a Rural area, with RU-4 Zoning occurring to the west, across Bruno Road. The Comprehensive Plan allows for downzoning's to RU-4.

### **Compliance with Rezoning Criteria**

Section 2208.03 of the Zoning Regulations provides fifteen criteria used to evaluate rezoning requests. Eleven of the criteria are applicable to this request. Nine criteria are met as presented and one is met with conditions and one does not

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

The proposal is intended to facilitate standard, rural home site development but the parcel would be eligible for the full range of allowed Principal, Accessory, and Special Uses per Article 6 of the Zoning Regulations. The Rezoning to RU-4 is to allow the applicant's to be able to opt-out of Building Code and allow a rural living consisting of farming and animal raising.

The site plan presented for the Opt-Out permit shall meet the minimum requirements and provide setbacks, septic location, utility locations, driveway location, etc. A condition has been added that during permit submittal a clear site plan shall be presented.

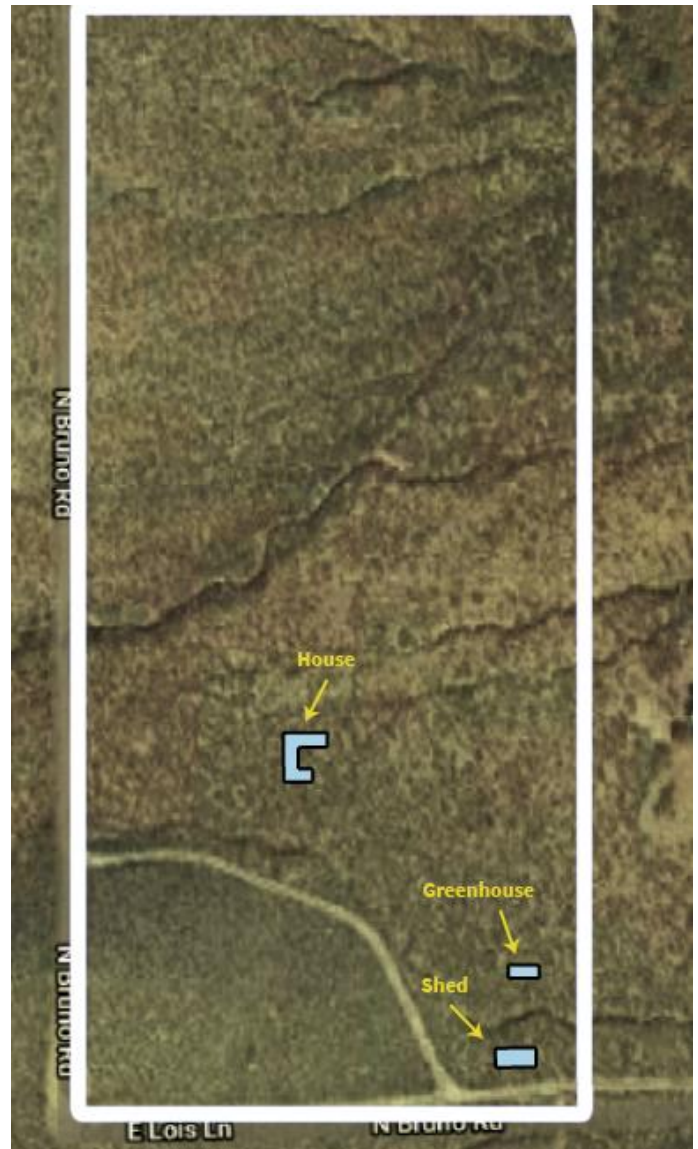
#### **2. Compliance with Applicable Site Development Standards: Complies**

The parcel exceeds 13 acres. The home is located near the center of the parcel and will be able to meet all required development standards.

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

Surrounding properties remain able to develop. If they wish to subdivide their property, the zoning still permits that.

#### **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 in a rural area with very scattered single family homes on larger lots. The photograph to the right shows one nearby neighbor to the south. The down zone to larger lots will be compatible with surrounding development.

**6. Rezoning to More Intense Districts: Not Applicable**

As indicated, this request is for a downzoning, which in this case would reduce the permitted density.

**7. Adequate Services and Infrastructure: Complies**

The parcel and the existing road network all support the necessary infrastructure to develop the parcel under the guidelines for the RU-4 zoning designation.

**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 or off-site improvements. Rezoning from R-36 to RU-4 would decrease the permitted density, with a corresponding decrease in potential traffic.



**9. Development Along Major Streets: Not Applicable**

This parcel does not take access off a major roadway.

**10. Infill: Not Applicable**

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

**11. Unique Topographic Features: Complies**

Due to the steep, rocky terrain of the site the downzoning it would be very difficult to build residences on 36,000 square foot lots.

**12. Water Conservation: Complies**

As this proposed downzoning would reduce permitted maximum density, potential water usage could decrease.

**13. Public Input: Complies**

As a downzoning, the Applicant was not required to complete a Citizen Review. Staff mailed notices to neighboring property owners within 1,000 feet of the subject property on September 15, 2020 . Staff posted the property on September 21, 2020 and published a legal notice in the Herald/Review September 2020. One response in support was received.

**14. Hazardous Materials: Not Applicable**

No hazardous materials are proposed.

**15. Compliance with Area Plan: Complies**

The subject property is not located within an area plan however the Comprehensive Plan designates the area as Rural. RU-4 is consistent and compatible with the comprehensive plan and surrounding properties.

**V. PUBLIC COMMENT**

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

**VI. SUMMARY AND CONCLUSION**

The request is for a downzoning, from R-36 (Residential; one dwelling per 36,000 square feet), to RU-4 (Rural; one dwelling per four acres) on a 13.12-acre site located north of Douglas. At this time, the area is characterized by open expanses and widely scattered residential development.



**Factors in Favor of Approval**

1. The request complies with ten of the applicable Rezoning factors used by Staff to analyze this request;
2. With the recommended Conditions the request would be in keeping with the character of the existing development in the area;
3. One letters of support has been received.

**Factors Against Approval**

None identified.



**VII. RECOMMENDATION**

Based on the factors in favor of approval, Staff recommends forwarding the request for a rezoning, from SR-36 (Residential; one dwelling per 36,000 square feet) to RU-4 (Rural; one dwelling per four acres) on 12.12 acre parcel 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. The site plan provided for the Opt-Out permit shall clearly show the layout of buildings and the residence so that staff can confirm if the proposal fully complies with the Development Standards and Building Code requirements (I.E. minimum square footage and setbacks).