



# Cochise County

## Development Services

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### MEMORANDUM

**TO:** Cochise County Planning and Zoning Commission  
**FROM:** Robert Kirschmann, Planner II  
**FOR:** Dan Coxworth, AICP, Development Services Director  
**THROUGH:** Richard Karwaczka, County Administrator  
**SUBJECT:** Docket RZ21-05 (Barney)  
**DATE:** May 18, 2021 for the June 9, 2021 Planning and Zoning Commission Meeting

### APPLICATION FOR A REZONING

The Applicant requests a Rezoning from RU-10 (one dwelling per 10 acres) to RU-4 (one dwelling per four acres) on approximately 20.3 acres. The request will facilitate parcel 208-40-001P to be split into a maximum of three parcels of at least 4 acres and bring parcel 208-40-002 into compliance with Zoning.

The Planning and Zoning Commission recommended approval of the request at their meeting of June 9, 2021. Please find the report presented to the Commission below.

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

Applicant: Mr. Ryan Barney  
Location: 1438 F Triangle Lane, and the vacant 15 acres to the north  
APNS: 208-40-001P and 208-40-002  
Parcel Size: 20.33 Acres  
Current Zoning: RU-10 (Rural, one dwelling per 10 acres)  
Proposed Zoning: RU-4 (Rural; one dwelling per 4 acres)  
Growth Area: D – Rural Areas  
Plan Designation: Rural  
Area Plan: None  
Existing Uses: Parcel 208-40-002 has existing SFR with assessor structures on 5.32 acres  
Proposed Uses: Same, plus up three (3) additional lots

### **Zoning/Use of Surrounding Properties**

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-10	Rural Residential
South	RU-10	Rural Residential/ Agriculture

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

East	R-18	Vacant, scattered residential
West	RU-4	San Pedro River, Rural Residential/ Agriculture

**II. PARCEL HISTORY**

208-40-001P vacant, no history

208-40-002 SFR built in 1947

**III. NATURE OF REQUEST**

The applicant is requesting to amend the zoning of two parcels from RU-10 (one dwelling per 10 acres) to RU-4 (one dwelling per 4 acres). The reason for the request is two-fold. First the applicant would like to ability to split his 15 acres (208-40-001P) into approximately 4 acres parcels. The second is to help the adjacent neighbor whose home is located on 5 acres, but with the ten-acre minimum zoning.

The parcels were zoned RU-10 in 1996 following Section 507 in the Zoning Regulations which state:

*Lands under the authority of Cochise County at or after the time these Zoning Regulations become effective which have not been previously zoned by Cochise County, shall be subject to the regulations of an RU-10 (Rural) Zoning District if in a Category D (Rural) plan designation ...until such time that the Zoning of such lands is amended in accordance with these Zoning Regulations.*

A request was received in 1996 to rezone these parcels and several others to TR-36. At the time the parcels were unzoned. The request for these lots was withdrawn and the RU-10 became the default designation.

**Mandatory Compliance**

Section 2208.03 of the Zoning Regulations requires that the amendment of Zoning District boundaries comply with the Comprehensive or Area Plan Designation assigned to the area in question. In this case, the subject property is in a Category "D" Rural Area. The Comprehensive Plan allows for a downzoning to RU-4.



**Compliance with Rezoning Criteria**

Section 2208.03 of the Zoning Regulations provides fifteen criteria used to evaluate rezoning requests. Twelve criteria apply to the request. As presented the application complies with all twelve criteria.

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

The applicant has presented a site plan which shows one additional lot being created directly to the west of the parcel containing the single-family residence. The rezoning would allow the remaining 10 acres to be split one more time. This would allow for a maximum of four dwelling on the 20 acres (including one existing residence).

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

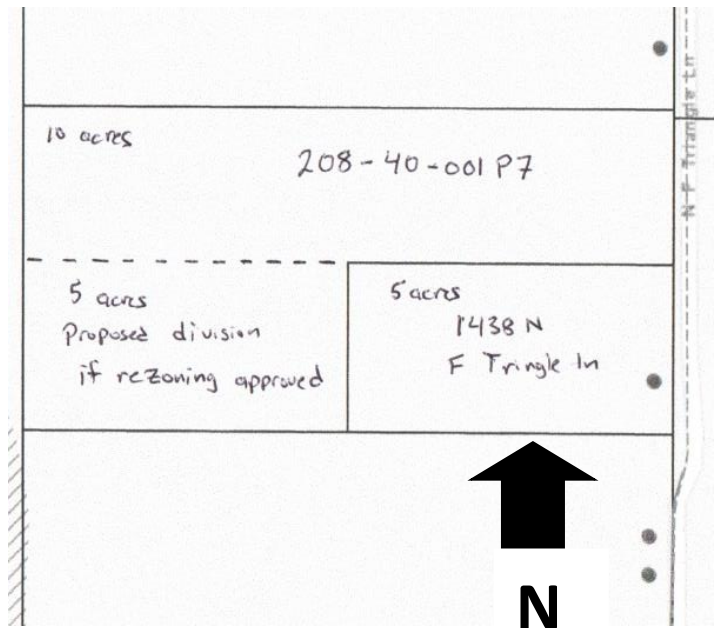
The lots will all exceed the minimum requirement of four acres which will provide adequate room for required setbacks.

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

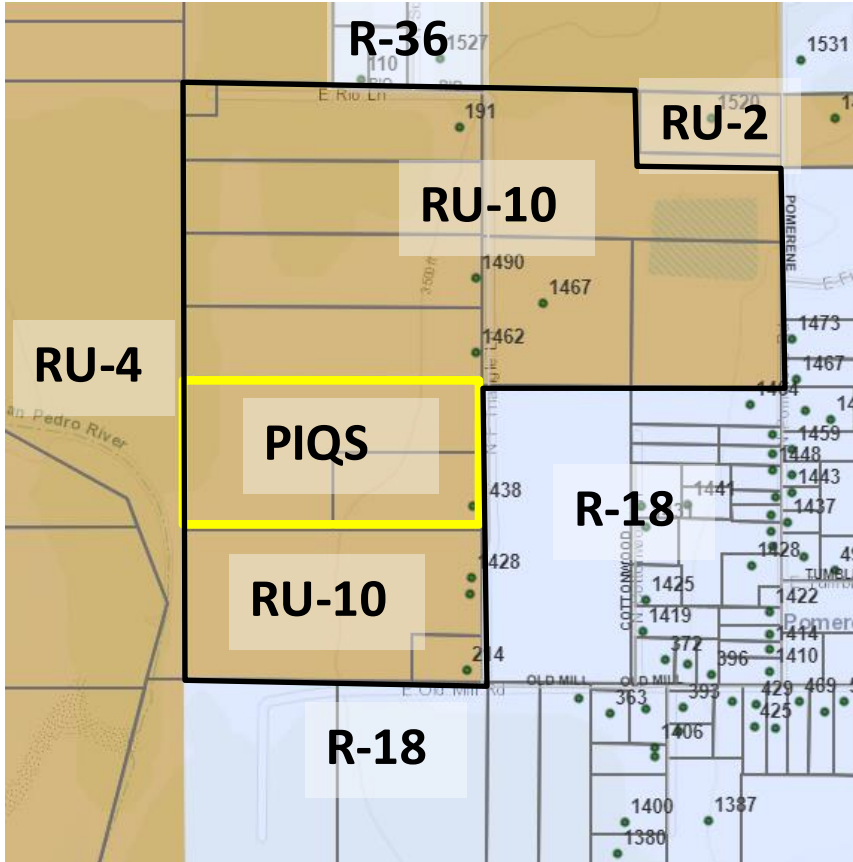
The rezoning will not prevent the surrounding lots from developing.

**4. Limitation on Creation of Nonconforming Uses: Complies**

If approved, the rezoning would not create any non-conforming land uses, in fact it would help where a single-family residence is located on only five acres. The setbacks in RU-10 and RU-4 are the same, 20 feet. The existing home and assessor animal structures do not meet the setback requirements regardless of whether the rezoning is approved or not. However, it should be noted, that during research for the staff report it was determined that the residence was in fact built in 1947 and lot created in 1943 prior to the establishment of Zoning Regulations. Therefore, the home and parcel would be "grandfathered".



**5. Compatibility with Existing Development: Complies**



The parcel is located in a rural area with scattered single-family homes on larger lots. Lot sizes range from ½ an acre to 20 acres. The parcel directly to the East across F Triangle Road are zoned R-18, which allows one dwelling per 18,000 square feet. The lots located to the west, where the San Pedro River is located are zoned for four acre lots. Rezoning this area to RU-4 makes a logical transition in density from Pomerene Road west to the river.

**6. Rezoning to More Intense Districts: Complies**

Although this is a rezoning to a more intense district it remains compatible with the surrounding zoning districts. There is more intense (18,000 square foot lots) directly across the street. Zoning to the west is RU-4.

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

The parcel and the existing road network support the necessary infrastructure to develop the parcel under the guidelines for the RU-4 zoning designation. This rezoning would allow a maximum of three new lots.

**8. Traffic Circulation Criteria: Complies**

This rezoning request will not alter the existing roadway network's layout or function without requiring right-of-way dedication or off-site improvements.

**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 to rezoning requests to General Business, Light Industry, or Heavy Industry.

**11. Unique Topographic Features: Complies**

No unique topographic features exist that will prevent the development of the property. The site is relatively flat and is located within a Zone X flood zone.

**12. Water Conservation: Complies**

The rezoning could result in a maximum of three residential lots, which would use more water than if the site was to be used as agriculture.

**13. Public Input: Complies**

The Applicant mailed a letter to all property owners within 300 feet. The applicant received positive feedback, in fact two neighbors requested that they include their property in the rezoning request. Due to not being adjacent the determination was made to not include those lots at this time. Staff mailed notices to neighboring property owners within 300 feet of the subject property on March 8, 2021. Staff posted the property on May 13, 2021, published a legal notice in the Herald/Review and posted notices on the properties. The Department has received no letters in support or against this request. One phone call was received expressing opposition due to the possible influx of California's to the area and stated that he will be preparing a petition from residents in the Pomerene area.



**14. Hazardous Materials: Not Applicable**

No hazardous materials are proposed.



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

The subject property is not 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.

**IV. SUMMARY AND CONCLUSION**

The request to amend the zoning of two parcels from RU-10 (one dwelling per 10 acres) to RU-4 (one dwelling per 4 acres). The reason for the request is two-fold. First the applicant would like to ability to split his 15 acres (208-40-001P) into approximately 4 acres parcels. The second is to help the adjacent neighbor whose home is located on 5 acres, but with the ten-acre minimum zoning

**Factors in Favor of Approval**

1. The request complies with twelve 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;

**Factors Against Approval**

1. None identified.

**V. RECOMMENDATION**

Based on the factors in favor of approval, staff recommends forwarding the rezoning request, from RU-10 (one dwelling per 10 acres) to RU-4 (one dwelling per 4 acres) on two parcels totaling 20.33 acres parcel to the Board of Supervisors with a recommendation of **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. The applicant's responsibility is 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. The parcel split will require a Minor Land Division request and approval.

*Sample Motion*

*Mr. Chairman, I move to recommend approval to the Board of Supervisors Rezoning, RZ21-05 (Barney) located on parcel 208-40-002 and 208-40-002P, with the Conditions of Approval recommended by staff; the Factors in Favor of Approval constituting the Findings of Fact.*