



# 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 Director  
**SUBJECT:** Docket SU-20-14 (Mason)  
**DATE:** April 29, 2021 for the May 12, 2021 Meeting

### APPLICATION FOR A SPECIAL USE AUTHORIZATION

The Applicant requests Special Use Authorization to establish an AKC dog and exotic cat breeding (animal husbandry) facility. The project will include the construction of two (2) 3,000 square foot buildings each with a 1,200 square foot overhang and outdoor play areas. The applicant plans to start with six (6) breeding animals and not to exceed 40 breeding females. The site is located at 4333 W Dillman Rd, Elfrida, and identified as parcel number 401-36-003A. The Applicant is Mr. Chance Mason.

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

Parcel Size: ~25.10 acres  
Current Zoning: RU-4 (Rural, one dwelling per four acres)  
Proposed Zoning: Same  
Growth Area: Category D  
Comprehensive Plan Designation: Rural  
Area Plan: None  
Existing Uses: SFR and shop  
Proposed Uses: Additional SFR and kennels

### Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Agricultural Pivot
South	RU-4	Rural residential
East	RU-4	Vacant/Horse breeder
West	RU-4	Agricultural Pivot/rural residential

### **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**

SFR built in 1992.

**III. NATURE OF REQUEST**

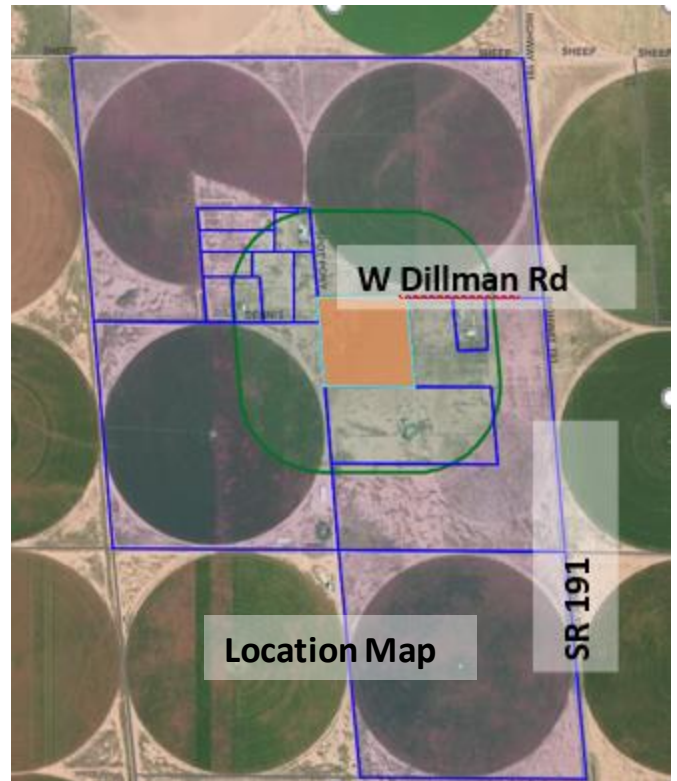
The Applicant lives on the property and would like to establish and dog and exotic cat breeding business. The applicant is anticipating starting with 6 breeding animals at first and if demand warrents up to 40 breeding females. The applicant proposes to build two (2) 3,000 square foot climate controled buildings. The buidlings will have shaded awnings over the outside portion of the kennel. There will also be a fenced area where the animals will be able to go outside.

Animal husbandry is allowed in Single Household Residential Districts with the approval of a Special Use pursuant to Section 906.13.

**IV. 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 conditions/modification, the project complies with two(2) additional factor.



**1. Compliance with Duly Adopted Plans: Complies**

The Economic Development Element states: *Education, creativity, and entrepreneurship are essential and should be encouraged as part of an economy-based land use policy. Supporting small businesses will not only spur diversified income opportunities and ensure economic competitiveness but will also foster resilience in the face of economic challenges such as natural disasters.* The project is consistent this statement.

**2. Compliance with the Zoning District Purpose Statement: Complies**

The purpose Section 601.02 states “To encourage those types of non-residential and non-agricultural activities which serve local needs or provide a service and are compatible with rural living”. The Buildings proposed are typical of a

rural property and will not obviously be a business. There is an existing horse breeding facility located to the east of this site. Additionally, the majority of the residents in the neighborhood provided letters in support



**3. Development along Major Streets: Complies**

The parcel takes access of Dillman Road which is private dirt road. Dillman connects to SR191. No additional dedication or improvements have been requ.

It should be noted, that in early discussions staff recommend to the applicant that to reduce impacts to the surrounding residents that customers to the site should be significantly limited. The applicant agreed and state in the application that there would be no customers to the site.

**4. Traffic Circulation Factors: Complies**

As noted above, at staff request no customers are received at the site and no employees outside the family will work at the kennels, therefore no additional traffic will be generated. A vet will visit the site once a month and as needed.

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

Even if the applicant were to have customers on-site Dillman would be able to accommodate the traffic. There could be nuisances created such as dust created by vehicles traveling on the dirt road.

The property is already developed with a single-family residence served by SSVEC. An existing well and septic are on the system. The new kennel buildings will be hooked up to a new septic system that will allow the applicant to clean the inside of the kennels.

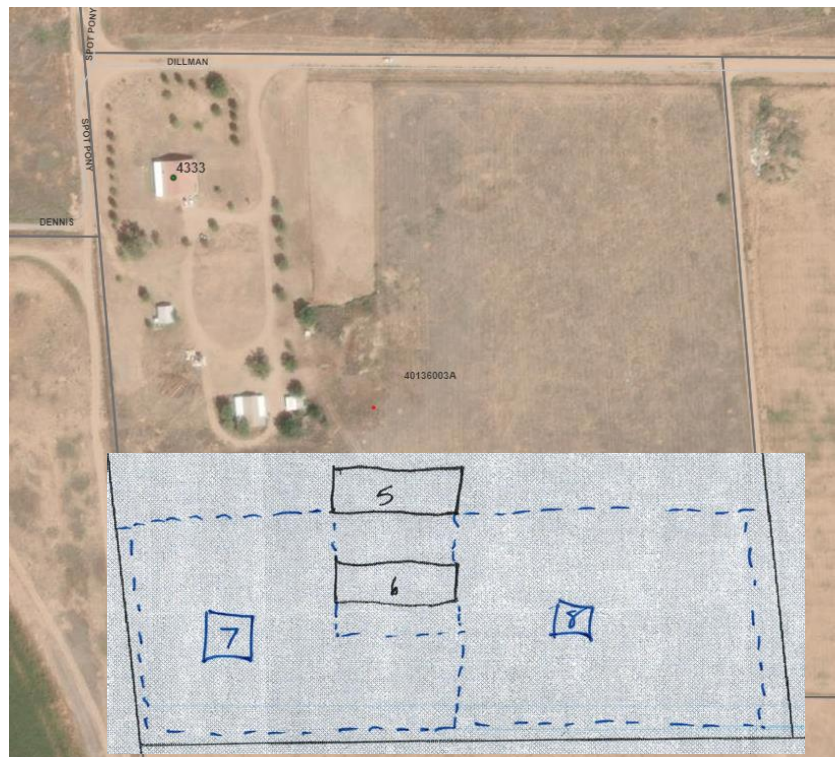
**6. Significant Site Development Standards: Complies with modifications and conditions**

**Site Plan:**

The applicant has worked with surrounding neighbors and revised his site plan several times to address their concerns. The final site plan presented shows two (2) approximately 3,000 square foot kennel buildings located towards the center rear of the 25-acre property. There will be two separate outdoor play areas one for males and one for females. Each will have a 400 square foot shade structure with auto waters.

**Setbacks:**

The RU-4 Zoning District setback is ten (20) feet. The buildings will be setback well in excess of the required 20 feet. All buildings will be setback a minimum of 100 feet from the property lines. Since it is not specifically called out on the plan, staff is including a condition that the outdoor fenced play areas shall also be setback a



minimum of 20 feet from the property lines to help avoid issues between animals on adjacent properties. Staff recommends the site be treated as residential for all standards including but not limited to the driveway and parking requirements.

**Lot Coverage:**

The RU-4 Land Use District allows for up to 25% of the lot covered with impervious surface (6.25 acres), which the proposal will not exceed. This will be verified at permit submittal.

**Height:**

Maximum accessory structure highest is 20 feet and the fence is a maximum eight (8) feet. Neither are proposed to be exceeded.

**Lighting:**

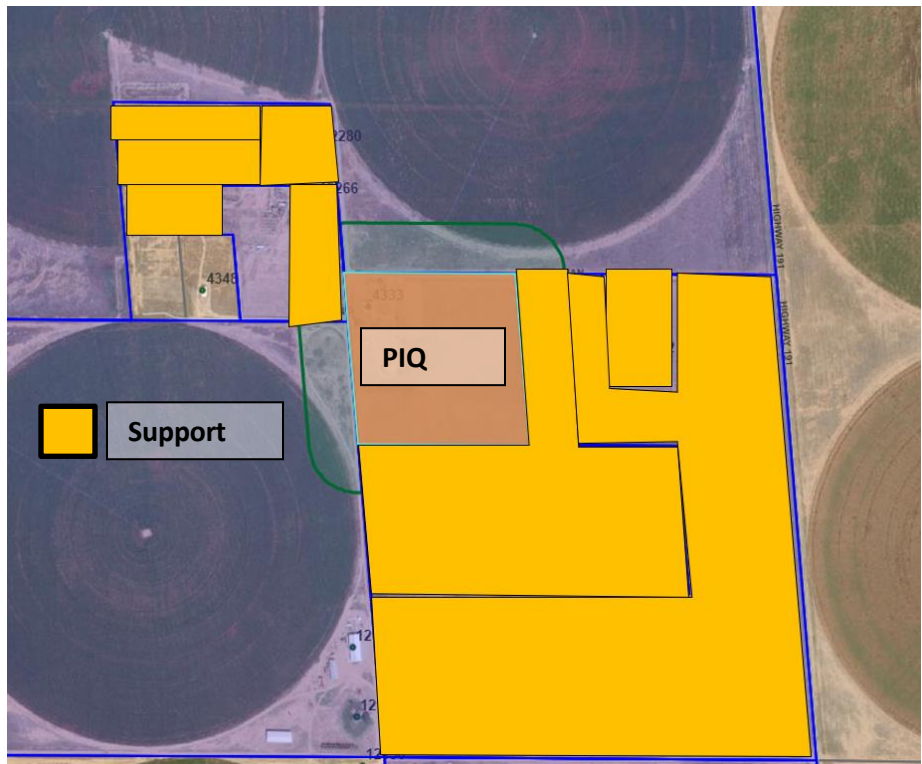
Any lighting required shall be shown on the non-residential permit application and will be required to be fully shielded and comply with the Outdoor Lighting Regulations.

**Condition:** The outdoor fenced play areas for the dogs shall be setback a minimum of 20 feet from the property lines.

**Waiver:** Staff recommends that the site be treated as a residential site in regard to parking and driveway materials.

**7. Public Input: Complies with conditions**

The applicant mailed letters to property owners within 1,000 feet of the property prior to application submittal. 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 a legal notice on the property. As of the writing of this report, staff has received a total of 286 letters on this project. Sixteen letters in support (including six (6) neighbors) were received. There were no letters in opposition received from any neighbor in the 1,000-foot radius.



Significant opposition was received on this project from outside of the notification radius including 151 emails from other areas of Cochise County, 45 emails from Pima County, 37 emails from Maricopa County, 30 emails no location specified, 11 emails from out of State. A large number of the letters received were standard form letters. All correspondence received as of the writing of this report has been attached to the report. The issues cited include:

- The use is a puppy mill  
Similar to medical marijuana dockets staff evaluates a proposed use based upon established criteria in the



zoning regulations. The Zoning Regulations do not have any specific regulations for animal husbandry uses. In fact, the County does not establish a limit on how many dogs or cats a property owner may keep as personal pets on a property. From a land use perspective, the application exceeds the requirements in regard to setbacks, building heights, fencing, etc. There is no local, state or Federal Law that prohibits the breeding of the animals proposed.

- Number of dogs excessive

As stated above, there are no maximum numbers of animals established in Code. Staff tends to agree that up to 40 breeding females is a large number of animals. Staff is recommending that the number of breeding

females be limited to no more than 20 to be authorized under this special use. Should the business be successful, the applicant could request a modification in the future requesting additional animals.

- Refusal to allow customers onsite  
Many of the letters stated that the Applicant intends on hiding how the animals are housed and treated by not allowing customers onsite. When the applicant originally approached staff about the request it was our suggestion to limit the customers to the property. This was in an effort to reduce traffic and impacts to the surrounding residents. Staff has included a condition requiring the applicant to allow reasonable inspections to concerned professional organizations such as the Animal Control and the Humane Society.
- Lack of detailed information contained in application.  
As the Planning Commission is aware, the Special Use stage is conceptual. A use may or may not be approved by the Commission. Therefore, most applicants are hesitant to spend money on full construction documents, hydrology studies, or enter into contracts. In this particular case the applicant has provided a conceptual site plan, floor plan, and elevation of the kennel buildings.



**Conditions:**

1. The number of breeding females shall be limited to a maximum 20. Should the applicant need to increase this number in the future a modification to the special use shall be requested.
2. The applicant shall allow reasonable inspections by professional organizations such as Animal Control and the Humane Society.

**8. Hazardous Materials: Complies**

There are no proposed hazardous materials.

**9. Off-Site Impacts: Complies**



The major off-site impacts could include noise and odors. The buildings will be insulated and climate controlled. Animals will be kept inside during adverse weather and in the evening. Dogs that are frequent noise makers will have bark collars to reduce impacts to the surrounding neighbors. As stated above, the applicant has received support from the surrounding property owners.

**10. Water Conservation: Complies**

There will be no employees or customers coming to the site, therefore there would be no increase in use as a result of that. The applicant estimates approximately 100 gallons of water

per day. This amount is far less than if the 25 acres were to be used for agricultural production like surrounding parcels.

**VI. PUBLIC COMMENT**

Please see detailed discussion above.

**VII. WAIVERS**

Staff recommends treating the site a residential use for all development standards including but not limited to the driveway and parking.

**VII. SUMMARY AND CONCLUSION**

to establish an AKC dog and exotic cat breeding(animal husbandry) facility. The project will include the construction of two (2) 3,000 square foot buildings each with a 1,200 square foot overhang and outdoor play areas. The applicant plans to start with six (6) breeding animals and not to exceed 40 breeding females.



**Factors in Favor of Approval**

1. With the recommended Conditions of Approval/modification, the proposed use would fully comply with all 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. Sixteen letters of support were received including six from neighbors;
3. The Economic Development Element encourages supporting entrepreneurship such as this small business.

**Factors Against Approval**

1. 274 letters in opposition were received outside the notification radius;
2. Although staff has included conditions to help mitigate the project, there is the possibility of noise and odors impacting adjacent neighbors.

**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;
4. A detailed, dimensioned site plan shall be provided with at time of permits (All parking and maneuvering shall take place within the property);
5. The number of breeding females shall be limited to a maximum 20. Should the applicant need to increase this number in the future a modification to the special use shall be requested;
6. The outdoor fenced play areas for the dogs shall be setback a minimum of 20 feet from the property lines;
7. The applicant shall allow reasonable inspections by professional organizations such as Animal Control and the Humane Society;
8. The Kennel Buildings shall be insulated to help reduce noise impacts to surrounding properties;
9. Animals that present a barking issue shall be controlled through training, bark collars or other industry standards;
10. Animals shall be housed indoors over night;
11. This property is located within FEMA Zone A. Therefore, a FPUP will be required;
12. A land clearing permit will be required for clearing over 1 acre;
13. The property owner is aware that there cannot be any adverse impacts to the property, property boundaries, adjacent properties, roadways, etc. that will occur as a result of this proposed development;
14. The applicant is required to obtain a permit from Environmental Health for the new septic system.

**Sample Motion:**

*Mr. Chairman, I move to approve Special Use Docket SU21-14 (Mason), located on parcel 401-36-003A, with the Conditions of Approval recommended by staff; the Factors in Favor of Approval constituting the Findings of Fact.*