



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-21-31 (Old Fort Bowie)
DATE: January 24, 2022, for the February 9, 2022, Meeting

APPLICATION FOR A SPECIAL USE AUTHORIZATION

The Applicant, Mr. Robert Ruisinger of Diamond Mountain, Inc, requests a Special Use modification to approve the construction of numerous buildings, monuments, and walking paths. A detailed description is provided further in the report.

The project is located north and south of Old Fort Bowie Road and identified as Assessor Parcel Numbers 304-22-001A, 002, 025, and 006H, consisting of approximately 1,076 acres. A total of approximately 10.5 acres are proposed to be cleared and developed.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 1,076 acres
Current Zoning: RU-4 (Rural; one dwelling per 4 acres)
Proposed Zoning: Same
Growth Area: Category D
Comprehensive Plan Designation: Rural
Area Plan: None
Existing Uses: Existing temple and guest lodging
Proposed Uses: Same, with a new visitor center, café, parking, pilgrimage path, etc.

Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Rural Residential
South	RU-4	Vacant Government Land
East	RU-4	Vacant Land
West	RU-4	Fort Bowie National Historic Site

Planning, Zoning and Building Safety

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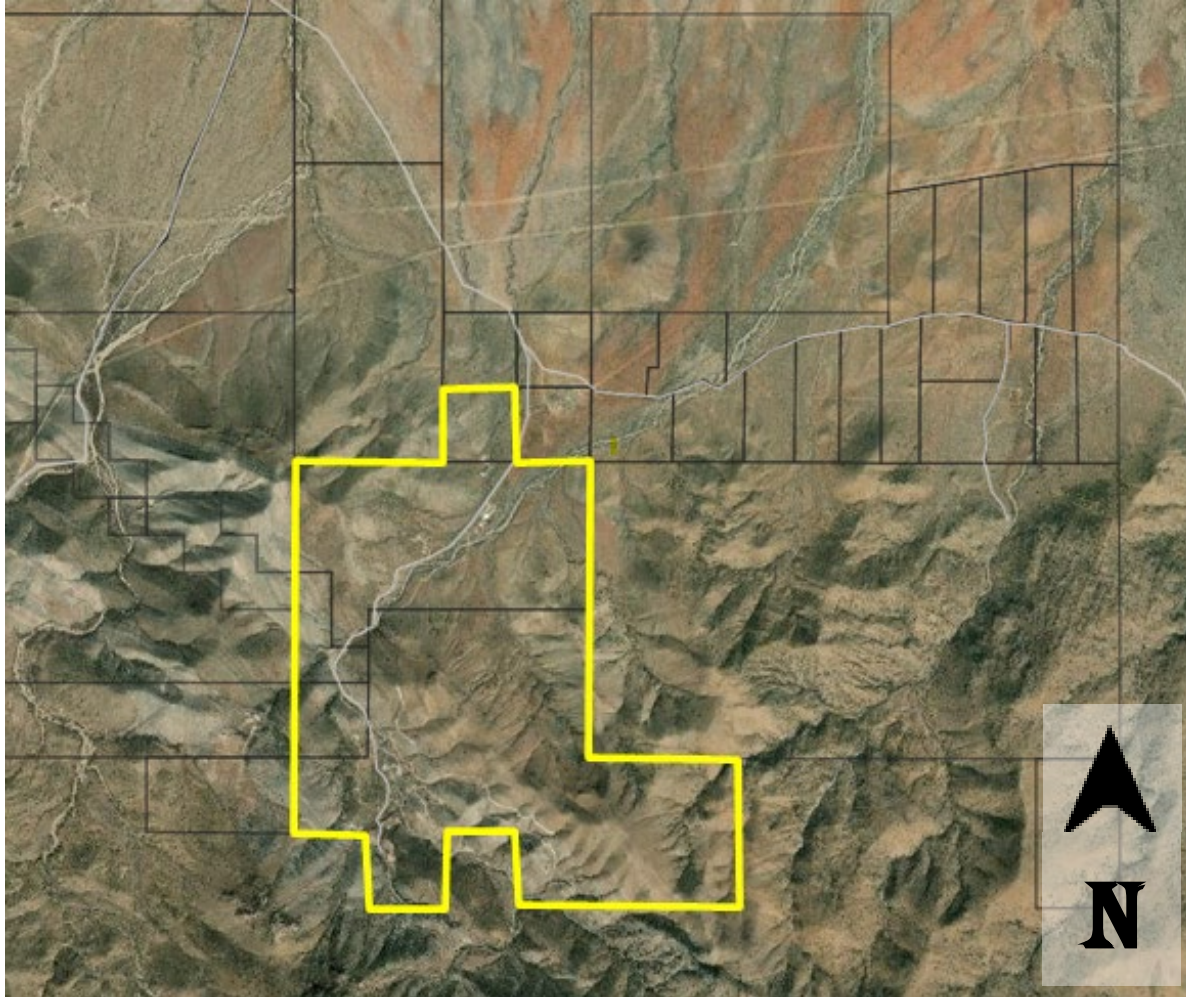


Figure 1:
Parcel
Location Map

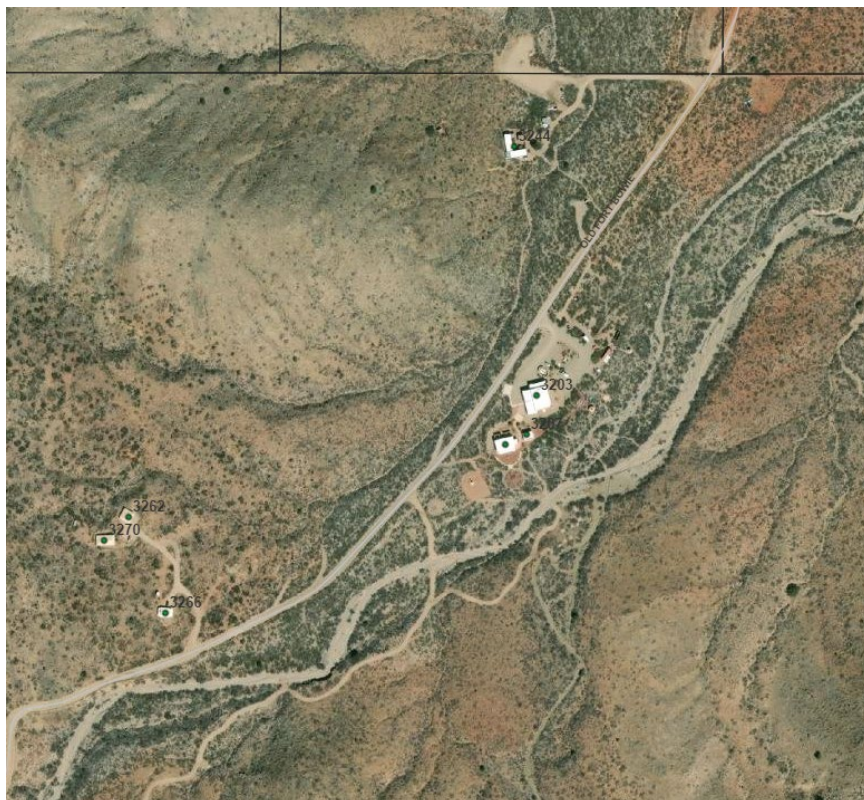


Figure 2: Close up aerial of the existing
facility

II. PARCEL HISTORY

1985 – Permit issued for Single Family Residence (SFR)

2002 – SU-02-12 granted for a Monastery, 10-site campground, group quarters, and two retreat single-family residences s. Permits issued for two SFRs, septic systems, and accessory structures.

2003 – Permits issued to construct campground, group quarters, and retreat single-family residences s.

2004 – Permits issued to construct a shrine and temple.

2005 – Permits issued to construct an SFR with an alternative waste disposal system and to construct an accessory workshop. A Home Occupation for a web-based business from an existing SFR granted.

2006 – Permit issued for temporary RV use.

2007 – Permits issued for an SFR and septic system and for an additional septic system for future construction.

2008 – Permit issued for an SFR.

2009 – Permits issued for 10 SFRs with waste disposal systems. Additional waste disposal systems were permitted for future construction. Permit issued for construction of an additional shrine.

2010 – Permits issued for an additional 19 SFRs with waste disposal systems.

2011 – Permit issued for an awning.

2014 – Permits issued for new kitchen building, additions to existing structures, and two signs.

III. NATURE OF REQUEST

The Applicant, Mr. Robert Ruisinger of Diamond Mountain, Inc, requests a Special Use Authorization to approve the construction of numerous buildings, monuments, and walking paths as follows:

1. *Welcome Center/Visitor Center with café and gift shop – providing interpretative information, orientation, and respite for visitors.*
2. *Offices – part of the Welcome Center/Visitor Center building, offices for employees and volunteers for Diamond Mountain Retreat Center administration.*
3. *Memorial Wall and Garden – an exterior garden with a memorial wall will be an exterior experience for visitors to the Welcome Center.*
4. *Visitor Parking Lot – a parking lot will be constructed for visitors to Diamond Mountain with approximately 100 parking spaces.*
5. *1 Bus Drop/Staging Area – a drop off facility for groups arriving by tour buses. While visitors are experiencing activities at the Diamond Mountain Retreat Center, the tour bus will stage/wait at this location for the return of their passengers.*
6. *Staff/Volunteer housing – initially four additional new units with the potential for 24 units in the future.*
7. *Maintenance Facility – a maintenance building and yard for maintenance and repairs of Diamond Mountain's facilities and for servicing guests in the retreat houses.*
8. *The Pilgrimage Path – a recreational hiking trail with 7 Stupas and two of the Stupas (Stupa 1 and Stupa 4) will have meditation buildings with the potential for more at other Stupa locations in the future. Between some of the Stupas, rest stops will be provided along the Pilgrimage Path, offering drinking water, seating, and shade for visitors hiking up to the termination of the Pilgrimage Path at a Mountain Temple. The first rest stop, near an area native Americans used for cultural events and referred to as the Apache Sacred Ground, will educate visitors about the Apache tribe, their history and tie to place, and the meaning and purpose of the Apache Sacred Ground.*
9. *A Mountain Temple – a small intimate temple terminates the Pilgrimage Path near the highest peak on Diamond Mountain's property, providing a place for Buddhist worshippers.*
10. *Additional small meditation buildings at the other 5 Stupas are under consideration, but their construction depends on the success of fundraising efforts.*
11. *An additional Temple near the first Stupa is under consideration, but its construction depends on the success of fundraising efforts.*

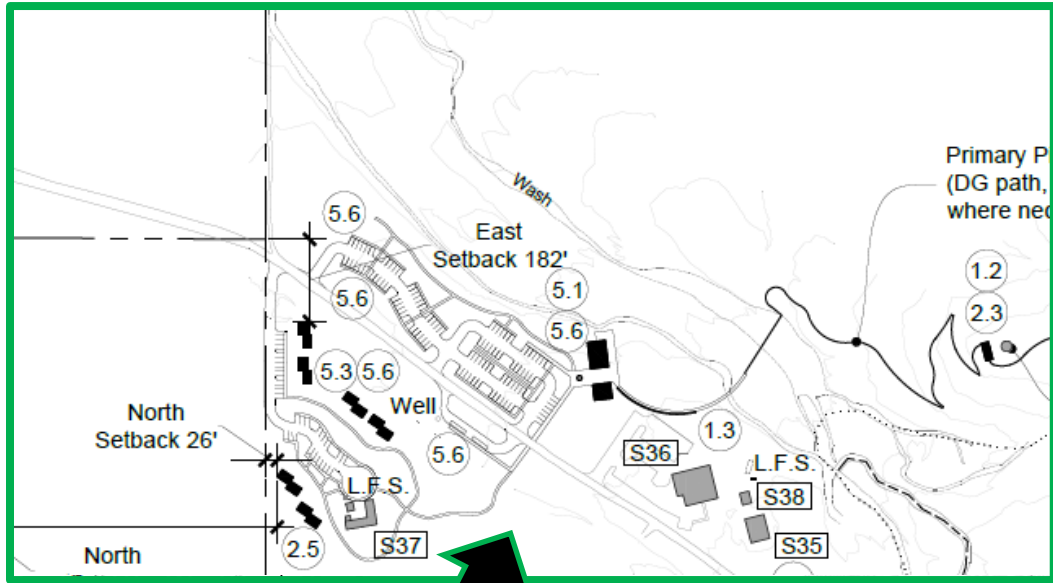


Figure 3: Enlarged Site plan around main facility

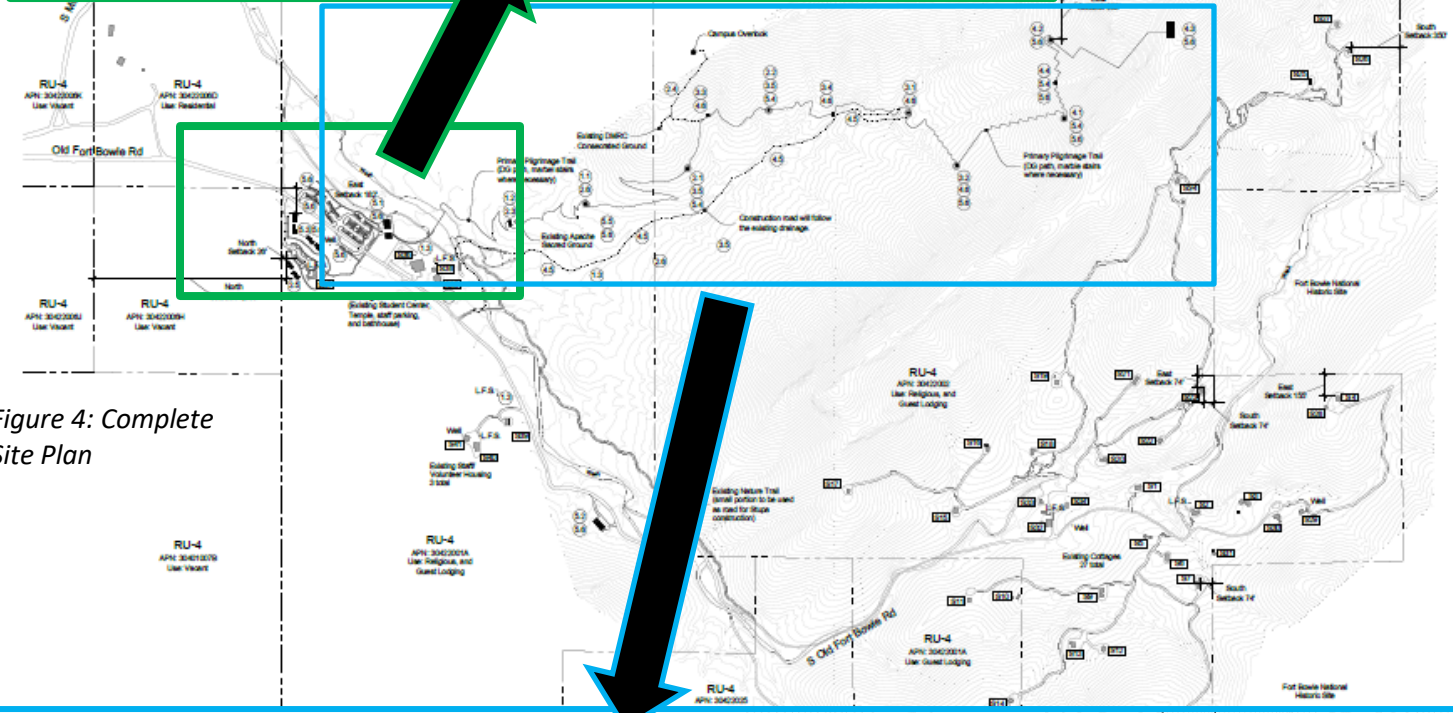


Figure 4: Complete Site Plan

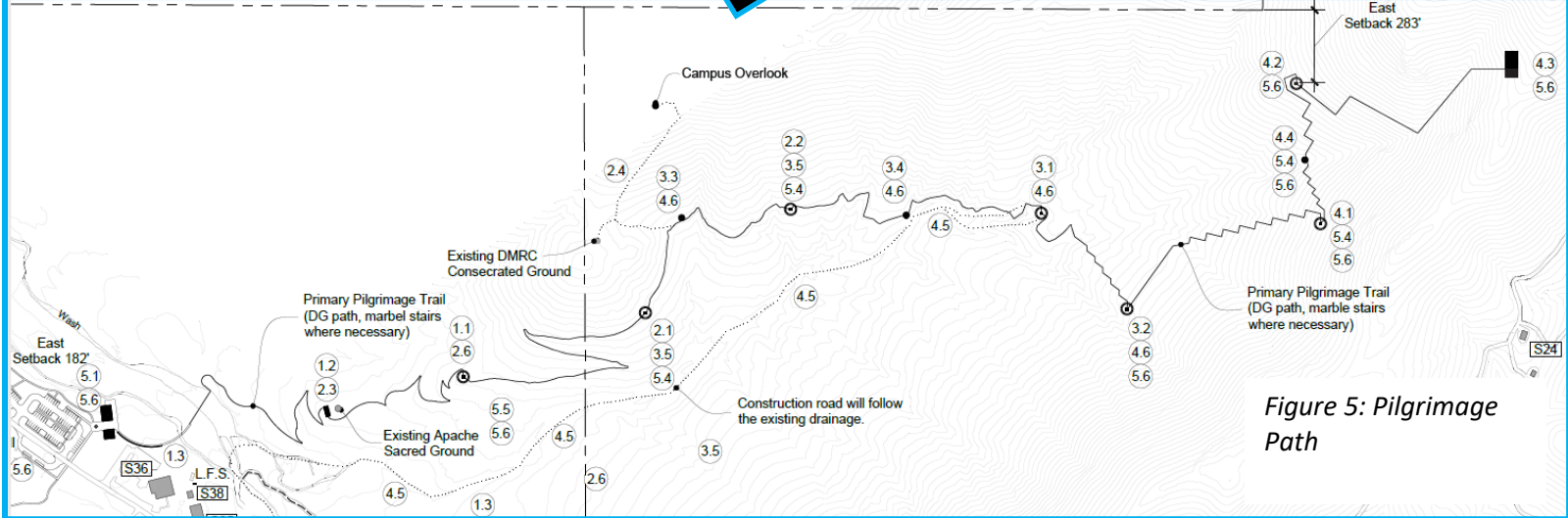


Figure 5: Pilgrimage Path

The Rural Land Use District, Section 603.04 permits churches or places of worship by right. The Zoning Regulations further define Churches or Places of Religious Worship - Buildings and locations where people regularly participate in or hold religious services, meetings, or other activities related to exercising their religious beliefs. Therefore, the stupas, meditation buildings, temples, and similar are NOT the subject of the Special Use. Building permits may be submitted for permits without the approval of a Special Use and public input.

This Special Use is for the welcome/visitor/cafe/gift shop, offices, housing, maintenance buildings, and other structures unrelated to religious activities. The applicant has presented their entire phased plan for information and consideration of the Commission.

It should be noted that Federal Law, the Religious Land Use and Institutional Persons Act (RLUIPA), protects religious institutions from burdensome or discriminatory land-use regulations.

IV. ANALYSIS OF IMPACTS – COMPLIANCE WITH SPECIAL USE FACTORS

Section 1716.02 of the Zoning Regulations provides a list of ten factors to evaluate Special Use applications. Staff uses these factors to help determine the suitability of a given Special Use request, recommend approval for a Special Use Authorization and determine what Conditions and/or Modifications may be needed.

Ten (10) factors apply to this request with the information provided. The project, as submitted, fully complies with five (5) of the factors, with conditions is complies with four (4) additional and partially complies with one (1) factors.

1. Compliance with Duly Adopted Plans: Complies

The Comprehensive Plan describes the Rural Designation as follows:

[Areas identified as Rural] are identified by one or more of the following characteristics: sparsely populated; larger lot sizes, agricultural production or grazing, availability of sites large enough for intensive industrial uses that cannot be accommodated in other growth areas, large expanses of private and public lands, and/or have developed and undeveloped recreational resources.

The subject parcel is within a larger area that could be categorized as described above.

The proposed agricultural use is also consistent with the following Comprehensive Plan Elements:

- The Land Use Element states, "The protection of resource areas, and historical sites/landmarks especially in Category D Rural areas, should be considered by landowners and the County when developing." The applicant reached out to Fort Bowie early in the process to discuss the proposed development. Several of the stupas and buildings were relocated to reduce or eliminate visual encroachment from the Fort. There are today, and there will be additional buildings visible from the deck of the visitor center and some other higher locations, but with landscape and neutral colors should blend into the surroundings. Additionally, approximately 10.5 acres of the 1,000 plus acre site is proposed to be disturbed. The majority of the site will remain as open space.
- The Economic Development Element states that "Tourism is one of the key components of the regional economy. Bed and breakfasts, wineries, art galleries, cultural and historic sites, wildlife, and various outdoor recreation opportunities draw thousands of tourists to Cochise County each year. Therefore, preserving the historic and rural landscape is important due to its significance for our tourist economy". As mentioned above, the applicant has worked with Fort Bowie to limit the impact of historic resources while providing an additional opportunity for tourism in Cochise County.
- The Rural Character Element states, "the Envisioning 2020 process consistently revealed that rural character

is an important community asset worthy of protection. Participants in Envisioning 2020 mentioned farming and ranching economies, scenic vistas, ecotourism activities, dark night skies, unimproved roads, and large lots as measures of rural character". Though this project will increase traffic and visitors to the area and additional visual changes, precedence has already been set by both the existing facility and the administrative/ handicap entrance to Fort Bowie. The roads, although dirt, are County maintained to the project site. Additionally, it states, "Provide for a continuation of traditional rural ways of life, such as farming, ranching, and other agricultural-related activities, and provide for diverse and viable economic and development opportunities that are consistent with the character of Cochise County's rural areas." Again, precedence has been set, but the project has been designed with sensitivity to the surrounding land.

- The subject property is not within a Special Area Plan.

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

As stated in Section 601 (Purpose) of the zoning regulations:

RU (Rural) Zoning Districts are established to achieve the following purposes:

601.01 To preserve the character of areas designated as "Rural" in the Cochise County Comprehensive Plan;

601.02 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;

601.03 To preserve the agricultural character of those portions of the County capable of resource production;

601.04 To provide space for people, minimize traffic congestion, and preserve the existing rural environment of unincorporated areas of the County situated outside of existing communities;

601.05 To provide recreational support services that are compatible with rural living;

601.06 To protect the quality of the natural environment as it relates to safeguarding the health, safety, and welfare of the people in Cochise County; and

601.07 To allow consideration of some more intense non-residential uses as Special Uses that are inappropriate in more densely populated urban/suburban areas that may under some circumstances be appropriate in rural areas if designed to be sensitive to the general character of rural districts and natural environment and harmonious and in scale with existing development near the proposed site and in conformance with Section 601.06.

As listed above, the project only partially complies with these criteria. It complies insofar as it provides a large amount of open space and was designed to be sensitive to the natural environment. However, it would increase traffic and would not necessarily serve local needs.



Photo 1: from onsite looking towards the pilgrimage path



Photo 2: existing onsite housing



Photo 3: Student center



Photo 4: existing stupa onsite



Photos 5 and 6, Above and right, Simulation of pilgrimage trail and stupas

As previously stated, many of the proposed improvements are protected by Federal Law, and the Zoning Regulations permit religious uses by right. The Applicants have made an effort to work with the County, neighbors, and Fort Bowie. Buildings have been reconfigured. Stupas were lowered on the hill and neutral color palettes were selected to help mitigate the impacts of the proposed improvements.



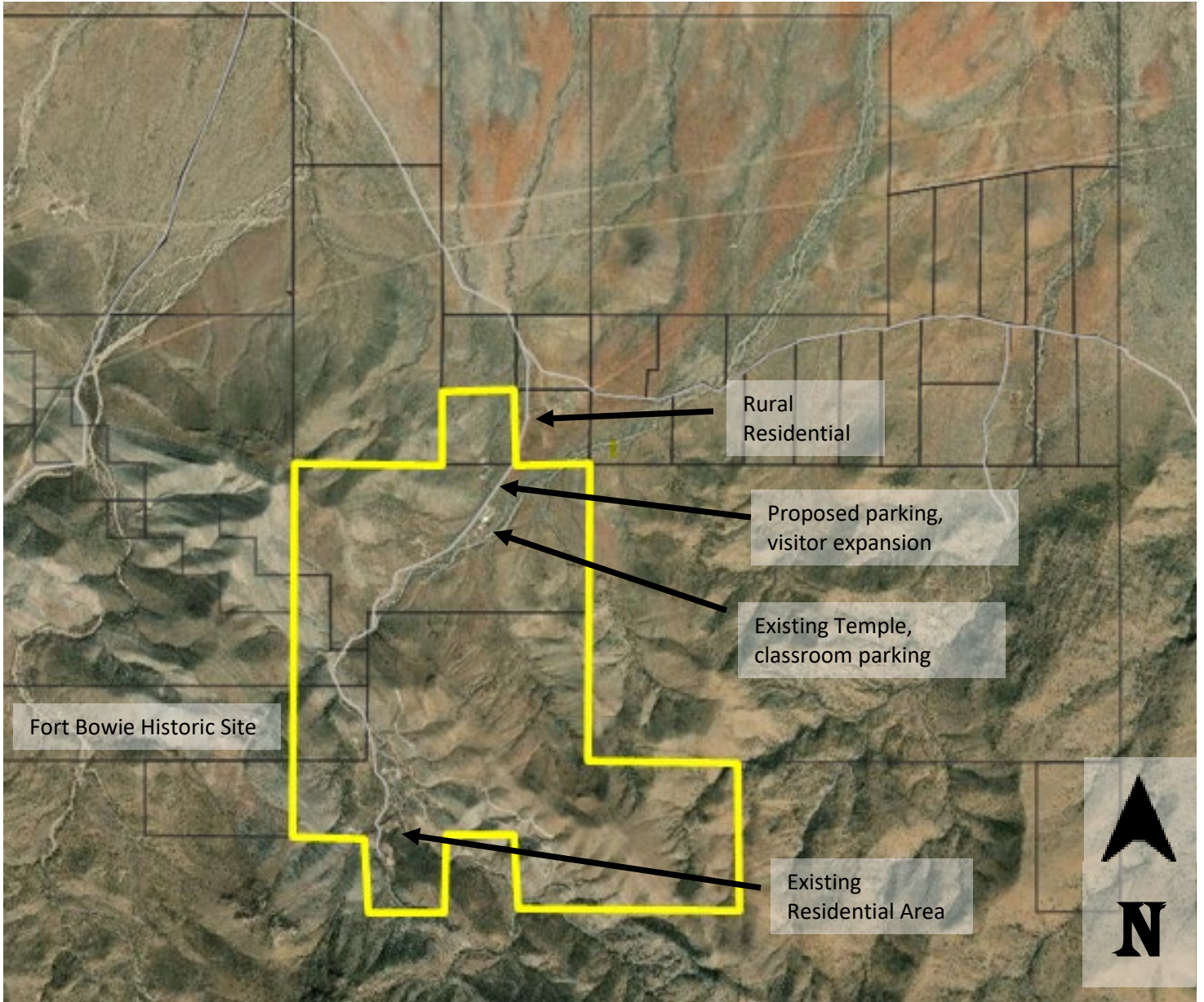


Figure 6: Adjacent Uses

3. Development Along Major Streets: Complies with conditions

Old Fort Bowie Road is a declared public highway with a right of way of 66 feet. It is a County maintained dirt road. The right-of-way department is requested that the road be dedicated to the County to perfect the right-of-way.

4. Traffic Circulation Factors: Complies with conditions

Today the site hosts religious retreats and events throughout the year. Once construction of the pilgrimage trail, stupas



Photo 7: Fort Bowie Road

and temples are complete, and visitors would be expected to increase. This is partly why the project includes a larger parking area to accommodate this increase. The plans also call for a bus drop-off. The Engineering Division has reviewed the proposal and has several conditions to meet before construction starts.

- Condition #1: The Applicant shall provide a traffic statement that will address the parking being located on both sides of Old Fort Bowie Road and how pedestrians will safely get across the road from the parking and bus drop-off area.
- Condition #2 The applicant shall provide an updated site plan that clearly shows all site distance triangles, identifies buildings, and includes a north arrow.

Once these items are addressed to the satisfaction of the County Engineer, building permits for that phase can be issued.

5. Adequate Services and Infrastructure: Complies

Most electrical service is provided to the site by Sulphur Springs Valley Electric Cooperative. Some of the more rural cabins and lodging are off the grid. Propane gas is provided at the existing student center. It is anticipated that a combination of these will be utilized for the new construction. The Applicants desire to remain as low impact as possible to include passive solar, rainwater capturing, etc. Existing wells, springs, and power already serve the site. The State of Arizona regulates and issues permits for wells.

6. Significant Site Development Standards: Complies with conditions

Setbacks: Complies

The Zoning Regulations have applicable standards for setbacks regarding this application in Section 604.03 (RU-4 setbacks). Section 604.03 requires a minimum of twenty feet measured from the closest point on the property line or the edge of the road travelway to the structure/use, whichever is closer. The proposed site plan complies with all setback requirements, as follows:

- The project site's northern boundary (Staff/volunteer buildings), adjacent to property owned by Diamond Mountain, is set back at least 26 feet. An existing driveway will be used and will provide additional parking in this area. No structures are proposed near the northern property line adjacent to the privately-owned rural residential home. The driveway for the new parking area will be approximately 100 feet from the property boundary.
- The western boundary, adjacent to Fort Bowie, will have no new construction the proximity. An existing guest unit is 116 feet from the property line.
- The southern boundary will have a setback well in excess of 1,000 feet.
- The eastern boundary will have a setback of 283 feet.



Photo 8: Existing building at Diamond Mountain

Lot Coverage: Complies

The Rural Land Use district restricts overall site coverage to a maximum of 25%. Site coverage is defined as "the total percentage of the site covered with structures, buildings, paving, and impervious surfaces other than landscaping,

gravel, walls, and fences." With over 1,000 acres in total, the site is well under the lot coverage.

Height: Waiver Complies

The maximum height for structures within RU-4 zoning are as follows:

- Principal structure: 30' above grade
- Accessory structure: 30' above grade
- Wall or fence: 8' above grade

The structures are proposed to be a maximum of 20 feet. With a maximum overall height of 30 feet above grade.

Lighting: Complies with conditions

Lighting on the site is minima and consists of only necessary for safety. The applicant is expected to continue that. All lighting shall comply with the Outdoor lighting regulations. Staff is also including a condition requiring that parking lot lighting is provided. It shall only be in the form of low bollards with lighting directed down and kept to an absolute minimum for safety purposes. With these measures, it will help reduce the impact on the area's night sky.

7. Public Input: Complies

The applicant mailed letters to property owners within 1,000 feet of the property before application submittal. The applicant also met and had phone calls prior to submitting the application with neighbors and representatives of Fort Bowie. The applicant modified building and stupa locations based on concerns raised.

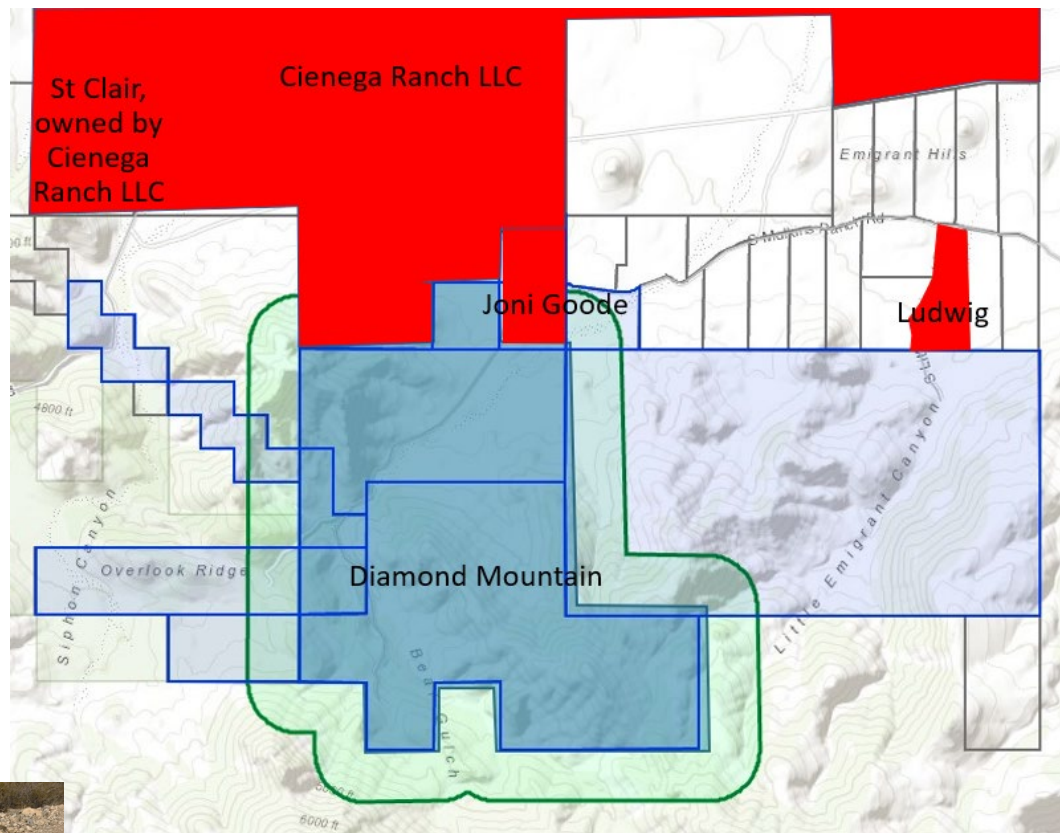


Figure 7: Fort Public Input Map

The case planner mailed letters to the same property owners within 1,000 feet of the subject property twice, published a legal ad in the *Sierra Vista Herald*, and posted legal notices on the property. To date, staff has received 0 responses in support and four responses from neighbors/property owners in opposition.

The criteria states, "If there is major public opposition to a proposed Special Use Authorization request, this may indicate that the technical evaluation regarding the compatibility of the use does not concur with the view of local residents and a recommendation of denial may be



Photo 9: Sign Posted in the vicinity

appropriate. If public concerns have been raised, it is fair to ask if the applicant has made a reasonable effort to address these concerns through the Citizen Review Process."

There are only four property owners within the 1,000-foot radius, including the Bureau of Land Management (Fort Bowie). We have received options from two of them, plus an additional letter from property owned by Cienega Ranch LLC. One additional letter was from outside the radius. Fort Bowie commented that permits would be required if access was proposed to their property.

Issues raised include:

- Road
 - Capacity
 - Pedestrians
 - Dust

The County Engineer has reviewed the project and requires a traffic statement that will be required to address the roadway issues. The County Engineer also noted potential conflicts between pedestrians and traffic on Old Fort Bowie Road. This is a County maintained road. Any improvements required by the traffic statement will be required to be completed by the applicant prior to starting that portion of the project.

- Construction/grading left unfinished

Staff understands that this can be a concern, and there is no guarantee that any project, whether a larger project such as this or a single-family home, will be completed. There are requirements for building permits, including the temples and stupas, that staff will evaluate and require mitigation as/if necessary. Should there be a violation of the approval or permits, or if an unsafe condition exists, Code Enforcement can get involved as needed.

- Aesthetics

Though this will be visible, primarily as you are driving to the site up Apache Pass/Old Fort Bowie Road, the project has been designed to take topography, vegetation, and building materials into play. As mentioned, the applicant relocated the maintenance building after a discussion with one property owner. Additionally, after walking the trail and consulting with Fort Bowie, the Mountain temple was set down in a lower spot, primarily out of the view of Fort Bowie.

- Funding

Not a consideration of the Planning Commission.



Photo 10: closest residence to the south

- Impact on Fort Bowie

As mentioned throughout this report, the applicant reached out to Fort Bowie and made some modifications to the plan based on their concerns of visibility from the visitor center. The owner of Fort Bowie, the BLM, has responded with no comments other than a permit is necessary if they access their property. It should also be noted that Old Fort Bowie is only a handicap and park employee entrance. The main entrance to Fort Bowie is up Apache Pass Road via a hike to the site.

Finally, the existing facility is already visible from the deck of the visitor center but most of the other areas of the Fort. The Fort Bowie administration buildings, which are not reflective of typical architecture expected at a historic site, are visible from the Dimond Mountain Center.



Photo 11: Existing Stupa with Fort Bowie admin complex in the rear



Photo 12: View from Fort Bowie Admin towards Diamond Mountain



Photo 13: View from Deck of visitor center



Photo 14: View of the visitor center of Fort Bowie, the pathway is located mostly behind that ridgeline and obscured from the Fort

Though it is clear, that despite the applicant working with the neighbors, it is not supported by those directly adjacent but not a unanimous or overwhelming consensus. Therefore, staff believes that the project still complies with these criteria.

8. Hazardous Materials: Complies

No hazardous materials are currently used or proposed.

9. Offsite Impacts: Complies with conditions

There is a significant amount of outdoor activity associated with this request. Major offsite impacts could include traffic, fugitive dust, glare/glow, and visual impacts. In terms of mitigating each of these factors, the applicant has proposed the following:



Photo 15: Wash located adjacent to the facility

- Odor – No odors are expected to be generated by the project.
- Lighting- All outdoor lighting will be required to comply with the Outdoor Lighting Regulations. A condition is included that precludes the applicant from installing pole lights in the parking area.
- Noise – An increase in noise can be expected as there is the potential for additional visitors and traffic. As this is primarily a religious use/ assembly, the increase in noise from activities and patrons would be minimum.
- Traffic – (as included in the application)
 - Vehicles entering and leaving the site per day today: 5
 - Vehicles entering and leaving the site per day proposed: 80 (five-year estimate)
 - Total trucks per day today and proposed: one box truck or garbage truck
 - Estimate the direction and roads the traffic will travel from the site: south from Bowie/I-10.
 - Estimate the percentage travel in each direction: 100% south
 - At what time of day or season will traffic be heaviest: 10 AM to 5 PM, Saturdays and Sundays, Spring and Fall
 - Initially, the applicant estimated ten employees, but eventually 35 employees.

The traffic generated by this use is an increase over the existing use. Old Fort Bowie is a County Maintained dirt Road. Therefore, staff is recommending a condition that requires a Traffic Statement. This will need to evaluate the anticipated traffic, road capacity, driveway locations, and interaction of pedestrians vs. vehicles.

- Dust – The Applicant states that fugitive dust will not increase onsite however, there will be an increase in dust due to additional traffic on the area roads.
- Visual Impacts/Compatibility – as previously mentioned, the applicant reached out to Fort Bowie and area neighbors prior to submitting the application. As a result of these discussion the maintenance building was relocated, and a stupa was lowered down the hill to reduce impacts.
- Stormwater – this parcel lies within an X flood zone; however, the facilities are in close proximity to a large wash. Consequently, the following will be required in conjunction with permitting:
 - Drainage analysis
 - Floodplain use permit
 - Stormwater pollution prevention plan

- Clearing permit (for more than one acre of land cleared)
- a Notice to clear native plants

10. Water Conservation: Complies

The project site is not located within the Sierra Vista Sub-Watershed. The project site will be served by existing private wells and springs, as indicated in the site plan, and the total gallons of water per day is estimated at 1,500. In terms of water conservation, the applicant indicates many of the homes are off-grid, and conservation is key. Rainwater capturing, composting toilets, and non-irrigated landscapes are proposed. At this time, no new wells are proposed.

V. PUBLIC COMMENT

The applicant mailed letters to property owners within 1,000 feet of the property prior to their application submittal.

The case planner 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 legal notices on the property. To date, staff has received 0 responses in support and four responses in opposition.

VI. WAIVERS

The applicant is not requesting any waivers.

VII. SUMMARY AND CONCLUSION

This request is for a Special Use modification to approve the expansion of the Diamond Mountain facility located on several parcels totaling 1,076 acres.

Factors in Favor of Approving the Special Use

1. The project is consistent with the applicable policies of the Comprehensive Plan ;
2. The project complies with four of the criteria used to evaluate special use requests. With conditions, it complies with five more criteria;
3. The project would expand tourism within the northern portion of the County;
4. The site plan submitted complies with all applicable site development standards; and
5. The project would generate additional employment.

Factors Against Approving the Special Use

1. Offsite impacts: additional dust along area roads;
2. Visual impacts – despite making efforts to blend into the natural environment, the project would still be visible from many locations;
3. The project only partially complies with the purpose of the Rural Zoning Districts;
4. Four letters of opposition were received.

VIII. RECOMMENDATION

Based on the factors in favor of approval, staff recommends **Conditional Approval** of the Special Use request. If the Commission chooses to approve the request, staff recommends the approval be subject to the following conditions:



Photo 16: Entry sign and Public Hearing Notice

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. Non-compliance can result in the Special Use being revoked upon a 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 Division and may require additional modification and approval by the Planning and Zoning Commission;
4. In conjunction with permits for the parking lot and bus pick up/drop off, the applicant shall submit for consideration a Traffic Statement to the satisfaction of the County Engineer.
5. The permit application shall include a detailed, labeled site plan including clear sight triangles at all driveways and intersections to the satisfaction of the County Engineer.
6. The Applicant shall dedicate necessary right-of-way for Fort Bowie Road, prior to the issuance of any permits.
7. Any lighting shall comply with the Outdoor Light Regulations. If lighting is necessary in the parking areas, this shall be accomplished by using night sky compliant, low ground lighting such as bollards.
8. Prior to the start of construction:
 - A. A Stormwater Pollution Prevention Plan (SWPPP) will be required from the Arizona Department of Environmental Quality (ADEQ). This will also include a Notice of Intent (NOI) to clear land.
 - B. A Notice to Clear Native Plants must be obtained from the Arizona Department of Agriculture and a copy submitted to Cochise County.
 - C. A Drainage Analysis will be required (hydrology and hydraulic report) and a Floodplain Use Permit. This includes, but is not limited to, Grading Plans, Site Plans, Drainage Reports prepared by an Arizona Registered Civil Engineer.

Sample Motions:

Mr. Chairman, I move to approve Docket SU-21-31 (Old Fort Bowie), with the Conditions of Approval recommended by staff; the Factors of Approval constituting Findings of Fact.