



Cochise County

Development Services

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MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Christine Mclachlan, AICP, Planner II
FOR: Daniel Coxworth, AICP, Development Director
SUBJECT: Docket SU-22-05 (Rasch Contract Construction)
DATE: March 2, 2022 for the March 9, 2022 Meeting

APPLICATION FOR A SPECIAL USE AUTHORIZATION

The applicant, Kevin Rasch, requests a Special Use Authorization to repair and store heavy equipment on two unincorporated parcels of land north of Benson, Arizona. The establishment of a contract construction-type use is subject to site development standards contained in the Cochise County Zoning Regulations and requires Special Use Authorization from the Planning and Zoning Commission in a rural zoning district. Parcels 208-29-009H and 208-29-009F, are developed with two existing single-family homes, carports, and storage sheds. There is also heavy equipment on the property. The applicant seeks to remedy code compliance actions and legitimize a contract construction service business by special use. The location is 2248 and 2240 N Ocotillo Road, Benson, AZ, on 8.27-acres.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 8.27 acres (combined)
 Current Zoning: RU-4 (Rural; one dwelling per 4 acres)
 Proposed Zoning: Same
 Growth Area: Category D
 Comprehensive Plan Designation: Rural
 Area Plan: Tres Alamos Area Plan
 Existing Uses: Residential
 Proposed Uses: Residential with contract construction services

Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Residential
South	RU-4	Residential
East	RU-4	Residential
West	RU-4	Residential

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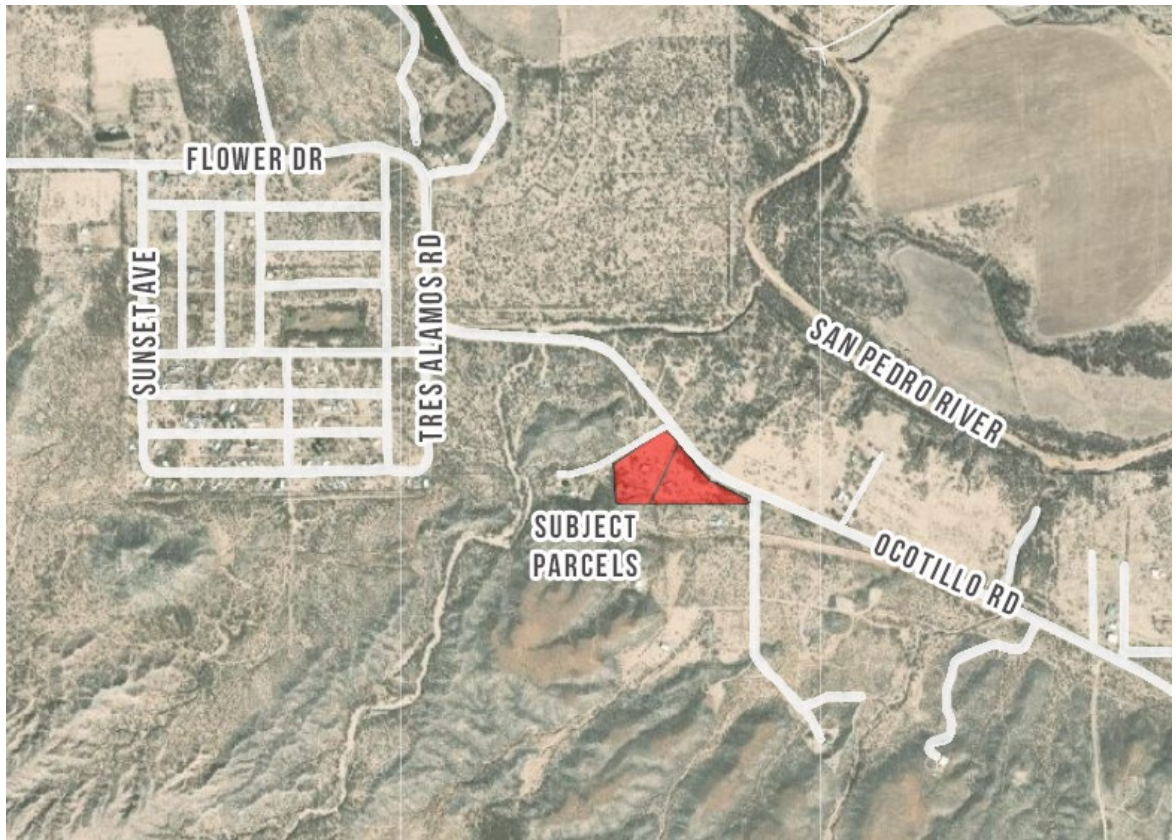


Figure 1: Parcel Location Map

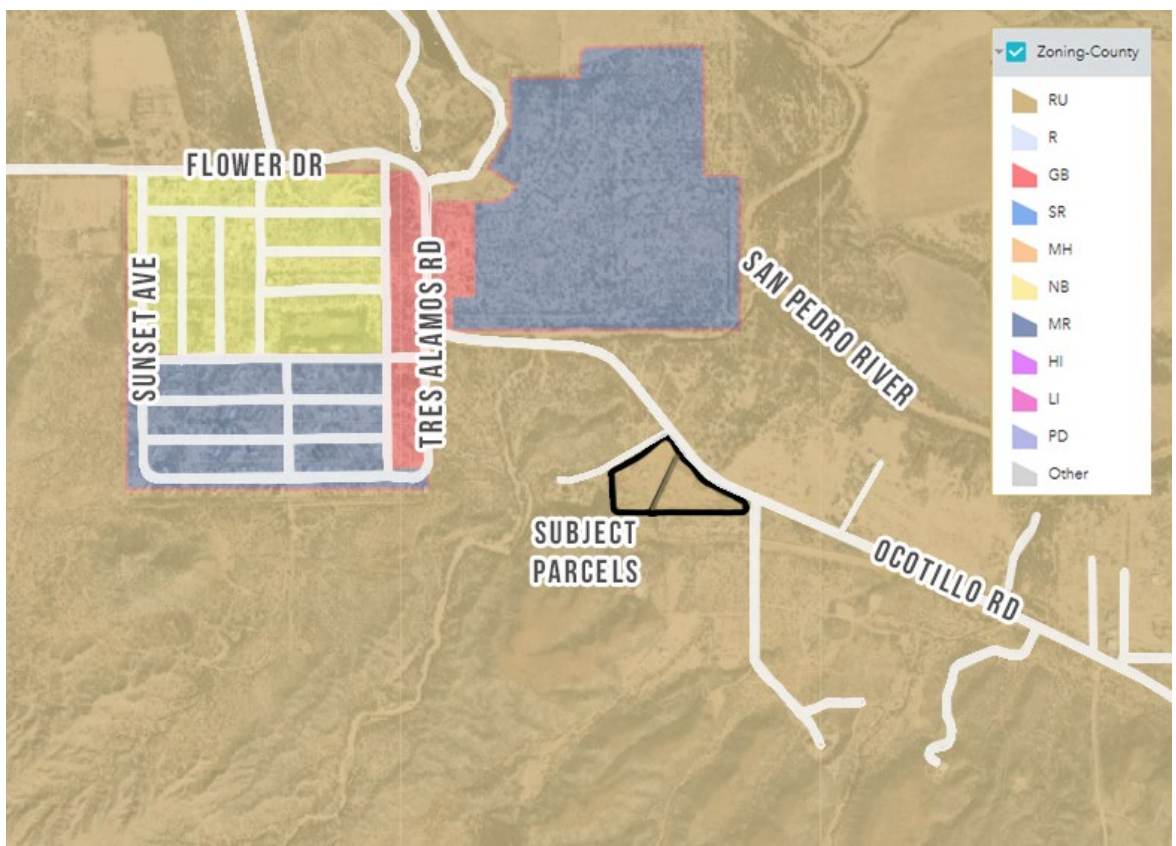


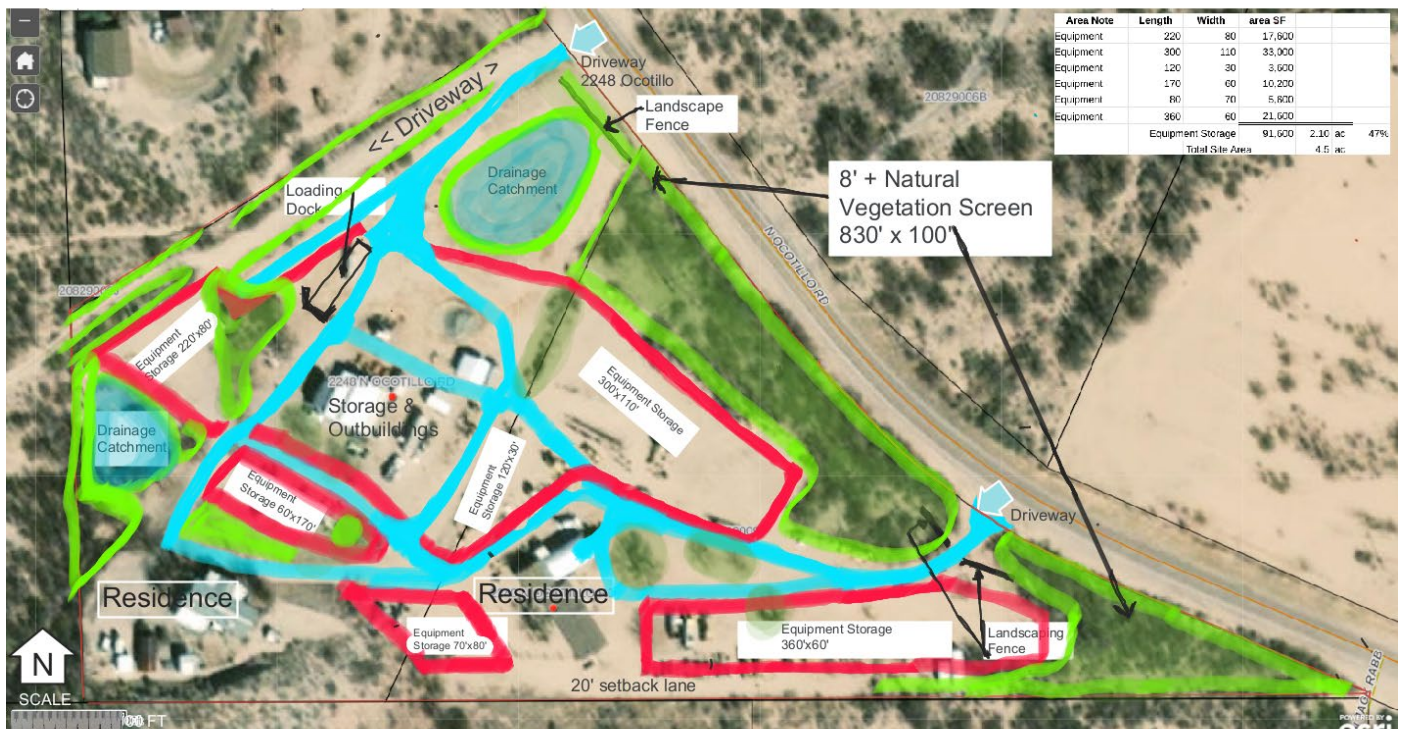
Figure 2: Zoning Map

II. PARCEL HISTORY

- Code Violation (File 202020-052): 1811 1704 Article 16 The property is being used for Industrial uses. Rebuilding heavy equipment and School busses. Processing old mining slag. Use of large elevated lights at night. Noise even on Sundays. Vehicles parked all over the property. Situation has progressed over the past 7 or 8 years. Opened 2/20/2020, Closed 11/05/2020
- Code Violation (File 21-03806): Appears the previous violation has come back. Large heavy equipment running all hours. Lights at all hours. Violations also included without a permit are sheds, RV's, clearing land, and operating a business. Opened 10/19/21
- MFD Home MH 1792 SF building permit, closed 1/30/09
- Accessory Structure Garage 576 SF, closed 8/17/05

III. NATURE OF REQUEST

The applicant, Kevin Rasch, requests a Special Use Authorization to repair and store heavy equipment on two unincorporated parcels of land north of Benson, Arizona. The establishment of a contract construction-type use is subject to site development standards contained in the Cochise County Zoning Regulations and requires Special Use Authorization from the Planning and Zoning Commission in a rural zoning district. Parcels 208-29-009H and 208-29-009F, are developed with two existing single-family homes, carports, storage sheds. There is also heavy equipment on the property. The applicant seeks to remedy code compliance actions and legitimize a contract construction service business by special use. The location is 2248 N Ocotillo Road, Benson, AZ, on 8.27-acres.



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, seven (7) factors apply to this request. The Project, as submitted, fully complies with four of the factors, partially complies with two factors and complies with conditions on one factor.

1. Compliance with Duly Adopted Plans: Partially Complies

The Comprehensive Plan describes Category D- Rural Areas as follows:

This category includes the outlying rural areas between cities and unincorporated communities and characterized by a low rate of growth; unimproved roads; low density, large lot rural residential development; agricultural production; and large tracts of undeveloped private and public lands. Non-residential development is geared toward providing local services, tourism or intensive uses that are not appropriate in more the densely populated parts of the county, such as power plants and feedlots.

The proposed small business/trucking use is also consistent with the following Comprehensive Plan Elements:

- The Economic Development Element that states that "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 "and the policy to continue to communicate with the business community and be responsive to the changing needs of established and new businesses."
- The Rural Character Element 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."

Notably, while the proposed use is not agriculture, it does provide an economic opportunity in a rural area.

However, the project site is also within the boundaries of the Tres Alamos Area Plan, which was adopted in July 2006. As stated in the Vision Statement for the area plan, "In the year 2020 the Tres Alamos communities will maintain a rural quality characterized by quiet, peacefulness, neighborliness, the beauty of the rural environment and large lot sizes. The community will maintain a trail network while protecting wildlife pathways, green open spaces, and dark night skies. New development will contribute to this Vision and will honor the rich ranching history of the area and will preserve historic sites and trails." The industrial nature of this particular use is somewhat at odds with this vision. In addition, one of the 5 land use policies is "Heavy industry is not appropriate."

2. Compliance with the Zoning District Purpose Statement: 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.

The proposed use is a non-residential use to help serve the needs of the local population, in part. It is also a more intense use that is proposed by special use application.





Photos of the Site and Ocotillo Road

The surrounding area is zoned RU-4 (Rural, minimum parcel size 4-acres). Most parcels in the area are developed with single-family homes on 4-acres or greater within half a mile.

3. Development Along Major Streets: Complies

The intent of this factor is to consider limitation on the number of access points on major thoroughfares or arterial streets, and County collectors through the use of frontage roads, shared access, no access easements or other safe methods designed to minimize road cuts that create unsafe traffic conflicts, hazardous traffic congestion and obstruct the functioning of arterials. The two properties subject to this request each have one existing access point onto Ocotillo Road. No additional access points are requested.

4. Traffic Circulation Factors: Complies

Specifically, this factor stipulates that the Special Use Authorization request should not result in the use of any residential street for non-residential through traffic. Ocotillo Road is a County-maintained Road. Although only two-lanes, Ocotillo Road a major thoroughfare for the Tres Alamos area. It directly connects to Benson and I-10. The applicant does not intend to employ more than two people and estimates two vehicle trips per day.

5. Adequate Services and Infrastructure: Complies

As an existing use, the property is currently served with water, septic, electricity, waste disposal and fire protection. No additional services are anticipated.

6. Significant Site Development Standards: Complies

Contract construction services is defined in the Zoning Regulations as follows, "Those services directly related to contract construction, including the indoor and/or outdoor storage of the necessary equipment and accessory fabrication. These include, but are not limited to general contractor construction, plumbing, heating, air conditioning, painting, paper hanging and decorating, electrical, masonry, stonework, tile setting, plastering, carpentry, roofing, landscaping, and concrete."

There are no additional, specific, development standards for the use.

7. Public Input: Partially Complies

See Section V. Public Comment

8. Hazardous Materials: Not Applicable

The Applicant states that the use of hazardous and dangerous materials is not anticipated on site.

9. Offsite Impacts: Complies with conditions

There is a history of offsite impacts on this site that has led to code enforcement. Specifically, past complaints have cited excess noise, light, and the visual impact of heavy vehicles/mining slag. Because of these complaints, visibility from a major thoroughfare, and a lack of specific site development standards within the Zoning Regulations, staff has recommended the following conditions:

1. Operating hours will be limited to those listed on the application – Monday through Friday 8am-5pm.

Outside of those operating hours, the applicant shall not generate noise, vibrations, noxious odors, dust, excess light detectable beyond their property lines.

2. No mining related activities may occur on either parcel.

This is a heavy industrial use. Given the proximity of this parcel to the San Pedro River and a shared well, this is not an appropriate use.

3. No outdoor storage of heavy equipment is allowed on Parcel 208-29-009H.

Given the topography, the objection of the closest neighbor, and the lack of screening along Ocotillo Road, staff recommends restricting outdoor storage on Parcel 208-29-009H. All heavy equipment and machinery are limited to 208-29-009F

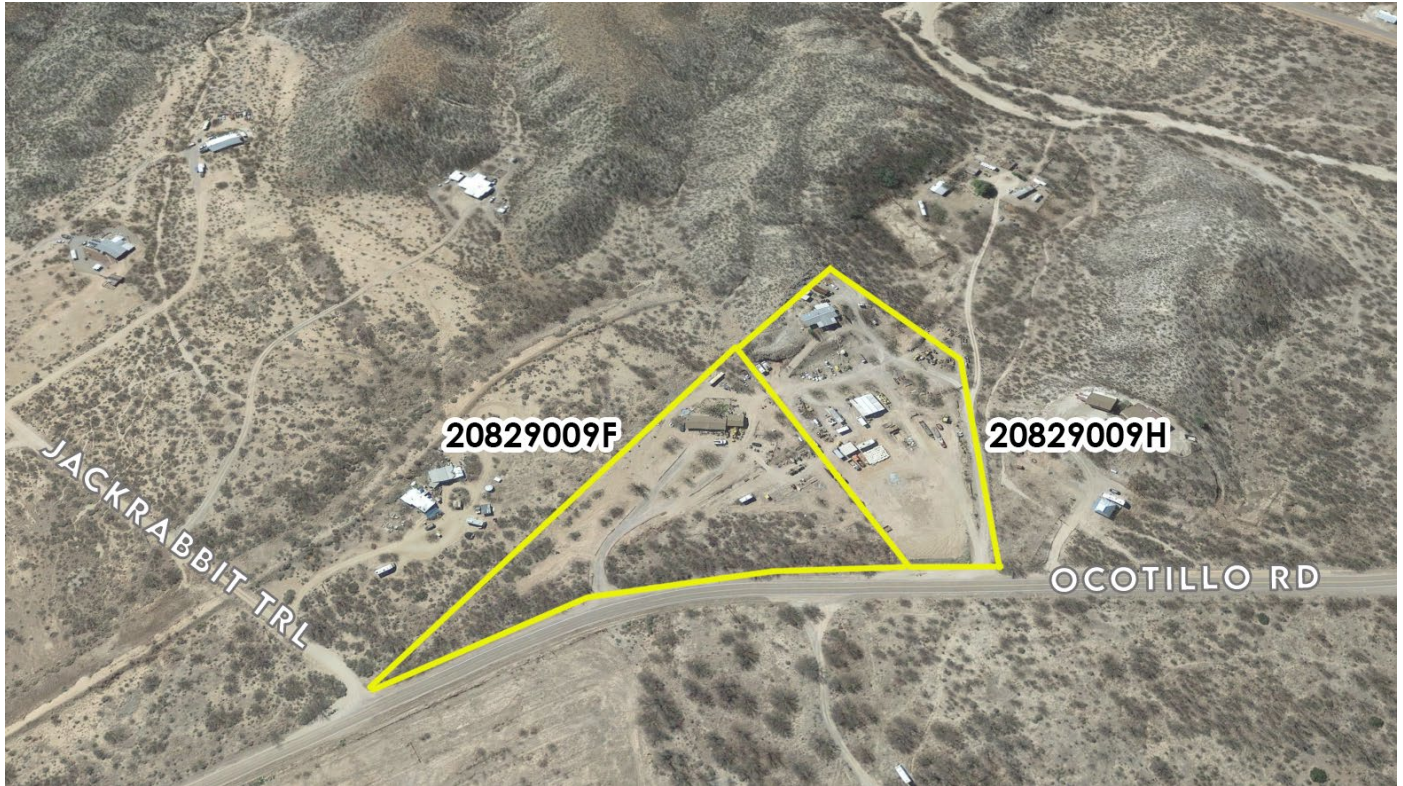
4. The existing buffer along Ocotillo Road is to remain. Landscape and fencing shall be installed where indicated on the concept plan.

5. All lighting shall fully comply with the County's Outdoor Light Regulations.

As stated in Section 1605.01 of the Zoning Regulations,

"A. All fixtures and lamps shall be located, installed, directed, shielded, and maintained to avoid light trespass and to minimize direct light and/or glare on neighboring properties and roadways. Accent lighting shall be directed onto the building or object and not toward the sky or onto adjacent properties.

B. The level of light trespass shall not exceed 0.2-foot-candles at the property line of a residential property. For a receiving non-residential property, the level of light trespass shall not exceed 0.5-footcandles under the same parameters."



View of the Property

10. Water Conservation: Not Applicable

Because the proposed use is primarily storage, it will not require additional water to serve. This criterion does not apply.

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 one response in opposition, two in support, and one mixed response (letter in support, call in opposition from two property owners at same address).

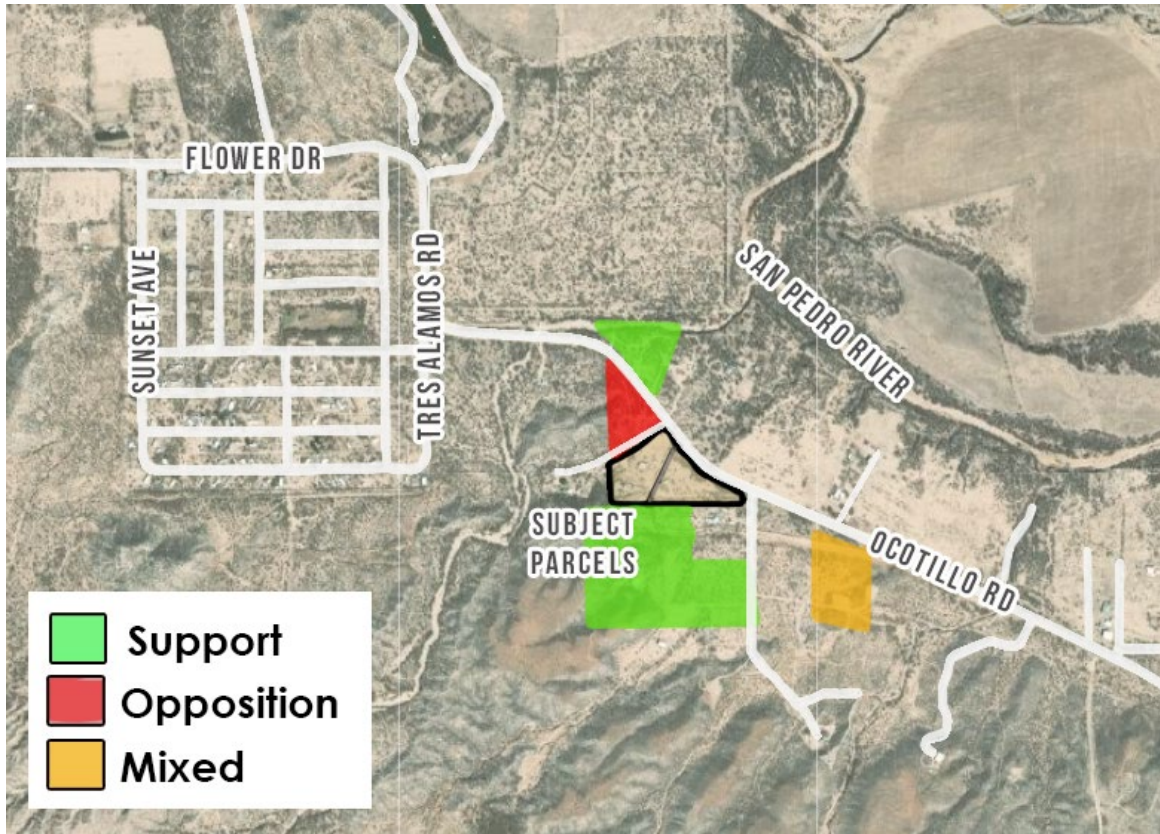


Figure 3: Public Input Map

VI. WAIVERS

None requested.

VII. SUMMARY AND CONCLUSION

The applicant, Kevin Rasch, requests a Special Use Authorization to repair and store heavy equipment on two unincorporated parcels of land north of Benson, Arizona. Parcels 208-29-009H and 208-29-009F, are developed with two existing single-family homes, carports, and storage sheds. There is also heavy equipment on the property. The applicant seeks to remedy code compliance actions and legitimize a contract construction service business by special use. The location is 2248 and 2240 N Ocotillo Road, Benson, AZ, on 8.27-acres.

Factors in Favor of Approving the Special Use

1. The project fully complies with five of the criteria used to evaluate special use requests, partially complies with two criteria, and complies with conditions on one criterion;
2. The application is consistent with the purpose of the Zoning District and the goals and policies of the Comprehensive Plan;
3. Staff received three letters of support; and
4. The project would allow for the continuation of a small business and a resolution of code enforcement action.

Factors Against Approving the Special Use

1. The application is not consistent with the vision or the land use goals of the Tres Alamos Area Plan;
2. There were two objections to this request; and
3. There are potential off-site impacts.

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:

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 18-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 24-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. The applicant shall provide all certified affidavits required by Section 1813.03 of the Zoning Regulations in conjunction with project permitting. All accessory structures, including sheds, RVs and accessory living quarters must be properly permitted in order to remain;
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. Operating hours will be limited to those listed on the application – Monday through Friday 8am-5pm;
5. No mining related activities may occur on either parcel;
6. No outdoor storage of heavy equipment is allowed on Parcel 208-29-009H;
7. All lighting shall fully comply with the County's Outdoor Light Regulations; and
8. The existing buffer along Ocotillo Road is to remain. Landscape and fencing shall be installed where indicated on the concept plan.

Sample Motions:

Mr. Chairman, I move to approve Docket SU 22-05, with the Conditions of Approval recommended by staff; the Factors of Approval constituting Findings of Fact.