



# Cochise County

## Development Services

Public Programs...Personal Service  
www.cochise.az.gov

### MEMORANDUM

**TO:** Cochise County Planning and Zoning Commission  
**FROM:** Robert Kirschmann, Planner II  
**SUBJECT:** Docket RZ22-08 (Highway 83)  
**DATE:** April 27, 2022, for the Meeting of May 11, 2022

### APPLICATION FOR A REZONING

The applicant requests a rezoning from RU-4 (Rural, one dwelling per four acres) to RU-2 (Rural, one dwelling per 2 acres).

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

Applicant:	Stone Canyon Ranch, LLC
Location:	7563 S Highway 83, near Parker Canyon Lake
APN:	105-28-006
Parcel Size:	17.14 Acres
Current Zoning:	RU-4 (Rural; one dwelling per 4 acres)
Proposed Zoning:	RU-2 (Rural; one dwelling per 2 acres)
Growth Area:	D – Rural Areas
Plan Designation:	Rural
Area Plan:	None
Existing Uses:	Former resort, two small homes, burned building east of SR83 and vacant west of SR83
Proposed Uses:	The owner plans to rebuild the home that burnt on the east side of the road. They would then apply for an ALQ for one of the existing dwellings and the other would be renovated to storage only. The zoning would allow up to 8 total lots.

### Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Vacant
South	RU-4	Vacant, Government Land
East	RU-4	Vacant, Government Land
West	RU-4	Vacant, Government 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**

The Assessors record shows a duplex that was built in 1964. In 1977 we there is a permit for a 720 square foot addition adding a bar for a nonconforming business.

**III. NATURE OF REQUEST**

The applicant is requesting to amend the zoning of their parcel from RU-4 to RU-2. The area is rural and consists of mostly vacant forest land. The applicant is requesting the amendment to split the parcel up into several smaller lots. The Applicant approached staff about submitting a minor land division on the property. The parcel was to be split east/west along SR83. Unfortunately, that would leave a non-conforming, approximately 2.8-acre parcel with four 4) acre minimum zoning. Ultimately, that Applicant decided to submit the request to rezone the property to RU-2. The applicant intends to split the 17 acres into up to 5 lots in the future. The Zoning would allow for up to 8 lots.



During review of the application it was noted that there are two (2) existing approximately 840 square foot homes on the east side of SR83 built around 1964. Even, with the two acre zoning this would be non-conforming. Staff reached out to discuss this further with the applicant and explained that the rezoning would deem the site as non-conforming. To bring the site into compliance the applicant proposes to reconstruct a larger, burnt down home, apply for an Accessory Living Quarters for one of the existing dwellings and convert the other existing dwelling into a storage building. After this is completed, the site will then be in compliance.

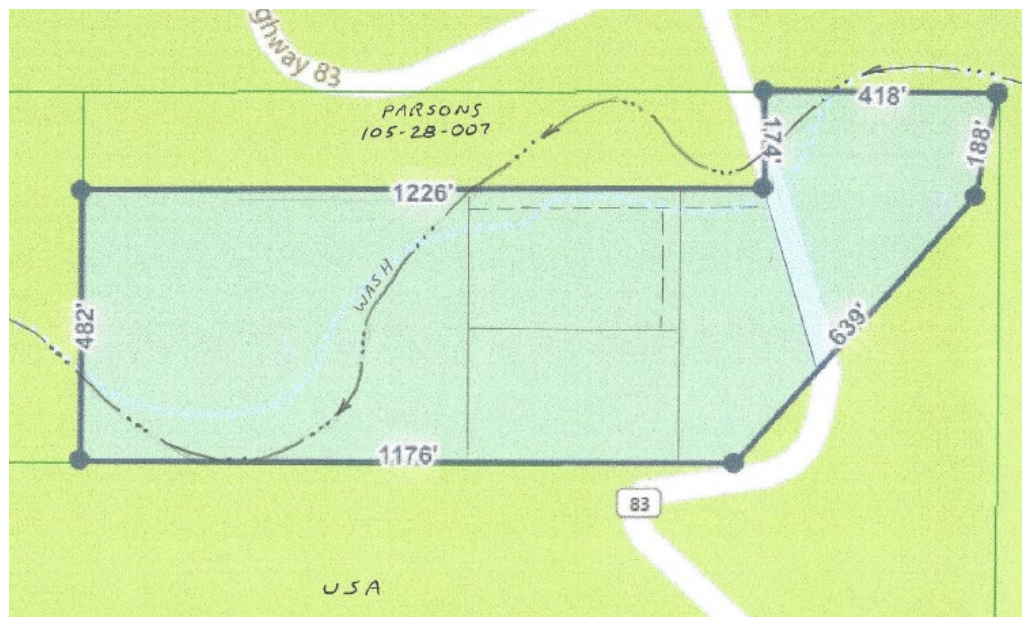
In the file, there is letter from the Forest Service in 2002 stating that the property has encroachment onto Forest Service property. The Forest Service and BLM (shown as the owner) were copied on the transmittal and provided no comments. Staff has conditioned that all new construction shall meet current Zoning Regulations.

**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 Comprehensive Plan allows for rezoning’s to RU-2.

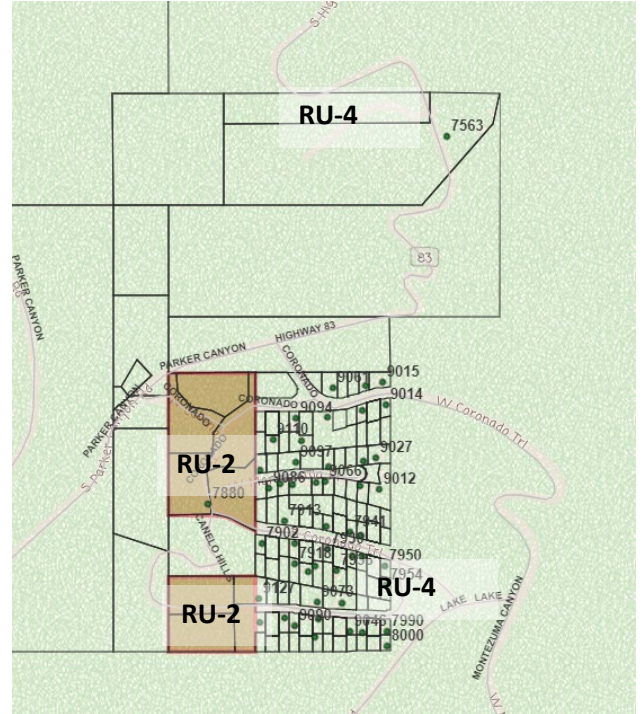
**Compliance with Rezoning Criteria**

Section 2208.03 of the Zoning Regulations provides fifteen criteria used to evaluate rezoning requests.



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

State Route 83 traverses across the eastern portion of the 17 acres. By default, this creates an approximately 2.8-acre parcel. Typically, regardless of Zoning, the Assessor’s Office will not allow parcel boundaries to cross roadways. If the property is sold, a minor land division is submitted, a dedication of the highway is made, or other factors could trigger the assessor’s office to create new parcels. The Rezoning request would help mitigate that concern. If the rezoning is approved, when that lot is created it will meet the size requirement of the zoning (RU-2). However, the split does create another problem. There are two (2) existing homes located on east portion of the property. These homes were built in approximately 1964 and both are approximately the same size. The RU-2 zoning would allow only one home per two acres. So, though the rezoning would make the lot size conforming it would create a nonconforming condition with two(2) homes on one two (2) acre lot. To bring the site into compliance the applicant proposes to reconstruct a larger, burnt down home, apply for an Assessor Living Quarters for one of the existing dwellings and convert the other existing dwelling into a storage building. After this is completed, the site will then be in compliance.



**Mandatory Compliance**

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

The proposed parcels will all exceed 2 acres. There are some constraints on the property such a large wash, but there should still be adequate room for development.

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

The surrounding properties remains able to develop.

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

If approved, there will be two single family homes on one parcel, resulting in a non-conforming issue. The applicant has proposed building a new home, applying for an ALQ for one residence and turning the other residence into storage. Once this is done the property would no longer be non-conforming.



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

The parcel is located in a rural area near Parker Lake. Rezoning’s to RU-2 have been approved less than 1,000 feet

away from this request. Additionally, there are many legal, nonconforming lots of zoned RU-4 that are well under an acre in the vicinity.

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

There are only two adjacent private properties. Though this is an increase in density, the minimum lots will still be 2 acres and are compatible with surrounding recent rezoning's.

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

The applicant will be responsible for providing utilities. There is not currently power in the area. Water will be provide by existing and future well(s).

**8. Traffic Circulation Criteria: Complies with conditions**

The rezoning has the potential to slightly increase traffic. State Route 83 is under ADOT control, and this item was transmitted to them. They are not requiring any traffic submittal, but an encroachment permit will be required for the driveways. Staff has also conditioned the dedication of SR83 to the State in conjunction with the Minor Land Division application.

**9. Development Along Major Streets: Complies with conditions**

ADOT will require an encroachment permit for the driveways and any work in the State Highway.



**10. Infill: Not Applicable**

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

**11. Unique Topographic Features: Complies**

The site is located in close proximity to Parker Lake area. The site has junipers, large pines, and a significant wash across the site. Future development will be required to be reviewed and approved by the Floodplain Department.

**12. Water Conservation: Complies**

The proposed rezoning could allow for up to 8 new single-



family homes. The lack of power, and location of the parcel would lend itself to more of a weekend retreat rather than a fully occupied residence limiting the amount of water used.

**13. Public Input: Complies**

The applicant reached out to the surrounding neighbors but did not receive a response. was not required to



complete a Citizen Review. Staff mailed notices to neighboring property owners within 300 feet of the subject property on April 6, 2022. Staff posted the property on April 13, 2022, and published a legal notice in the Herald/Review April 12, 2022. The Department received no responses.

#### **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-2 is consistent and compatible with the comprehensive plan and surrounding properties.

### **IV. SUMMARY AND CONCLUSION**

The request is for a rezoning, from RU-4 (Rural; one dwelling per four acres) to RU-2 (Rural; one dwelling per two acres) on a 17.14-acre site near Parker Canyon Lake. The area is characterized by open expanses, widely scattered residential development and dense, nonconforming lots closer to the lake.

#### **Factors in Favor of Approval**

1. The request with recommended conditions, complies with all thirteen 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.
3. There are parcels with 1,000 feet are zoned RU-2;
4. Many parcels within 1,000 feet are smaller than 1 acre;
5. There have been no responses in opposition received

#### **Factors Against Approval**

1. The rezoning would create a non-conforming situation on the east parcel until a new permit was obtained, and ALQ approved, and one residence is converted to storage.

### **V. RECOMMENDATION**

Based on the factors in favor of approval, Staff recommends forwarding the rezoning request from RU-4 (Rural; one dwelling per four acres) to RU-2 (Rural; one dwelling per two acres) on a 17.14-acre site near Parker Canyon Lake 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; and.
3. All land spits shall be completed through a Minor Land Division process; and
4. The Applicant shall dedicate necessary right-of-way to ADOT; and
5. The applicant shall obtain any and all permits required from ADOT including but not limited to an encroachment permit; and
6. All new construction shall comply with all zoning requirements including but not limited to setbacks, height, and lot coverage; and
7. The applicant shall comply with all Floodplain comments including but not limited to providing a drainage analysis for the project.