



MEMORANDUM

TO: Cochise County Board of Supervisors
THROUGH: Richard G. Karwaczka, County Administrator
FROM: Christine McLachlan, AICP, Planner II
FOR: Daniel Coxworth AICP, Development Services Director
SUBJECT: SUA 23-01 (Sirota Guest Lodging) Appeal of a Commission Decision
DATE: March 10, 2023, for the March 28, 2023, Meeting

Appeal of a Planning and Zoning Commission Special Use Authorization Application

The applicant, Ronald Sirota, has filed an appeal against a decision made by the Cochise County Planning and Zoning Commission. At the February 8, 2023 meeting, the commission denied a request 4-2-1 (denial, approval, abstain) for Special Use Authorization to offer guest lodging on a 10-acre (parcel 208-67-026) and a portion of an adjoining 10-acre parcel 208-67-025A in unincorporated Benson, Arizona. The establishment of guest lodging (607.01) is subject to Special Use Authorization from the Planning and Zoning Commission in a rural zoning district. The business is located at 440 W Cimmaron Ln Benson, AZ and 536 W Alamo Ln Benson, AZ.

Parcel 208-67-026 has a home, storage buildings, well house, and a guest cottage. Parcel 208-67-025A has a small home, storage building, and RV hookups. The applicant has a commercial horseback riding business onsite. This authorization would permit a limited amount of overnight guest stays in RVs and tents on the subject parcels. The applicant in both the special use authorization case and the appeal are the property owner, Ronald Sirota.

Section 1716.04 of the Zoning Regulations states that appeals of Special Use decisions shall be heard by the Board of Supervisors at a duly noticed public hearing. Following its deliberations on the date of the decision, the Board of Supervisors shall either affirm, reverse, or modify the decision of the Planning and Zoning Commission.

Planning And Zoning Commission Hearing

During the February meeting of the Planning and Zoning Commission, the Applicant requested a Special Use Authorization (SUA) to approve the provision of guest lodging on his property. The property has a horseback riding stables business onsite, which is a permitted use on sites in rural zoning that are at least 10-acres.

Because of their unique characteristics and often high potential to adversely impact surrounding properties, SUAs may be permitted only when they can demonstrate that potentially negative off-site impacts can be mitigated. The Commissions' role in a SUA is to evaluate whether negative impacts can be successfully mitigated. To assist this analysis, the Zoning Regulations includes ten special use factors. These factors represent policy decisions by the Commission and the Board, reducing uncertainty concerning their probable response to a given request. The SUA Factors focus on how a proposed land use will impact its neighbors, including the effects on traffic, demand on County services, and whether and/or the degree to which, the proposed use creates offsite nuisances.

Most SUAs have both factors in favor and factors against. In this case, planning staff determined the SUA:

- Fully complied/four factors (Compliance with duly adopted plans, compliance with the zoning district purpose, significant site development standards, water conservation)
- Complies with conditions/three factors (traffic circulation, adequate services and infrastructure, offsite

impacts)

- Does not comply/one factor (public input)
- Not applicable/ two factors (hazardous materials, development along major streets)

The Planning and Zoning Commission held a public hearing on February 8, 2023. At the hearing, the commissioners considered both verbal and written testimony. After considering all the facts, the commission voted 4-2-1 (denial, approval, abstain) in denial of the request. The appellant is both the property owner and the applicant for the special use authorization. The appellant was present and allowed to address the commission during the hearing for both a statement and rebuttal.

Appeal Requirements

According to Section 1716.04 of the Zoning Regulations, an application for an appeal of a special use authorization must include:

- A complete statement of all reasons why the appellant believes that the decision, or any part of the decision, was erroneous, arbitrary, capricious, or an abuse of discretion; and
- Written presentation of additional testimony and evidence, a full explanation of the additional testimony and evidence that will be submitted, with an explanation of why this was not presented to the Planning Commission.

The applicant has provided a complete application for the board's review. *Please see attachment SUA23-01 appeal application.*

Factors in Favor of Appeal Approval

- A rationale for their denial vote was not provided by any of the four commissioners.
- The applicant has provided compelling reasons why the decision was possibly arbitrary

Factors in Favor of Appeal Denial

- A denial would overturn a 4-2-1 (denial, approval, abstain) decision by the Planning and Zoning Commission, the board that is designated to consider all special use authorizations
- The original request did not comply with the public input factor, which is one of the ten factors used to evaluate special use requests. As stated by the Zoning Regulations, "major public opposition 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 appropriate"

Staff Recommendation

Based on the Factors in Favor of An Appeal Approval, Staff recommends **Approval of the Appeal** (SUA-23-01), thereby reversing the Planning and Zoning Commission's Denial of SU-23-02, attaching the original Conditions of Approval to the special use request.

The original conditions were as follows:

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 be applicable to the proposed use pursuant to other federal, state, or local laws or regulations;
3. Any changes to the approved Special Use will be considered a Modification to this Special Use and will require review and approval of the Planning and Zoning Commission.
4. The applicant will be required to enter into a Private Maintenance Agreement to participate in the maintenance of the non-maintained roadway, removal of horse manure attached;
5. Guest lodging is limited to four rental RV sites, two tent camping sites, and one guest cottage;
6. The designated guest lodging other than the guest cottage, shall not be used or occupied for permanent residential living purposes. Seasonal use is permitted for up to six months a calendar year by the same occupant;
7. The property owner shall follow best management practices for odor and pest control at all times. Horse manure shall not be allowed to accumulate on site to create nuisance odors and flies. The property owner shall retain the services of a licensed pest control service if they are unable to control flies; and
8. All onsite riding areas shall be adequately maintained to prevent the creation of nuisance dust during training and riding activities. Periodic watering of these areas is required, as necessary, to control dust.