



# Cochise County

## Development Services

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### MEMORANDUM

**TO:** Cochise County Planning and Zoning Commission  
**FROM:** Robert Kirschmann, Planner II  
**SUBJECT:** Docket RZ23-02 and CP23-02 (Patton)  
**DATE:** February 23, 2023, for the Meeting of March 8, 2023

### APPLICATION FOR A REZONING

The Applicant, Caleb Malboeuf, is requesting a rezoning from R-18 (Residential, one dwelling per 18,000 square feet) to GB (General Business).

A Comprehensive Plan Amendment is included because the area designated as C- Neighborhood Conservation. This designation does not allow zoning for General Business. The Applicant is requesting to change the Neighborhood Conservation to Developing on the parcel.

These requests are intended to facilitate the construction of three (3) separate four-plexes, though all uses allowed under General Business Zoning would be allowed.

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

Applicant:	Mr. Caleb Malboeuf
Location:	State Highway 80 (Patton Street) between Miller Lane and Sibyl Roads
APN:	120-18-021
Area Size:	1.7 Acres
Current Zoning:	R-18 (Residential, one dwelling per 18,000 square feet)
Proposed Zoning:	GB (General Business)
Growth Area:	C – Rural Community Areas
Proposed Growth Area:	Same
Plan Designation:	Neighborhood Conservation
Proposed Plan Designation:	Developing
Area Plan:	Saint David Area Plan
Existing Uses:	Vacant
Proposed Uses:	Multi-family, though all commercial uses would be allowed.

### **Planning, Zoning and Building Safety**

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Bisbee, Arizona 85603  
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520-432-9278 fax  
planningandzoning@cochise.az.gov

**Zoning/Use of Surrounding Properties**

Relation to Subject Parcel	Zoning District	Use of Property
North	R-18	Existing RV/Manufactured Home Park
South	R-18	Single Family Residences
East	GB	Mini storage
West	R-36/GB	Single Family Residences

**II. PARCEL HISTORY**

None

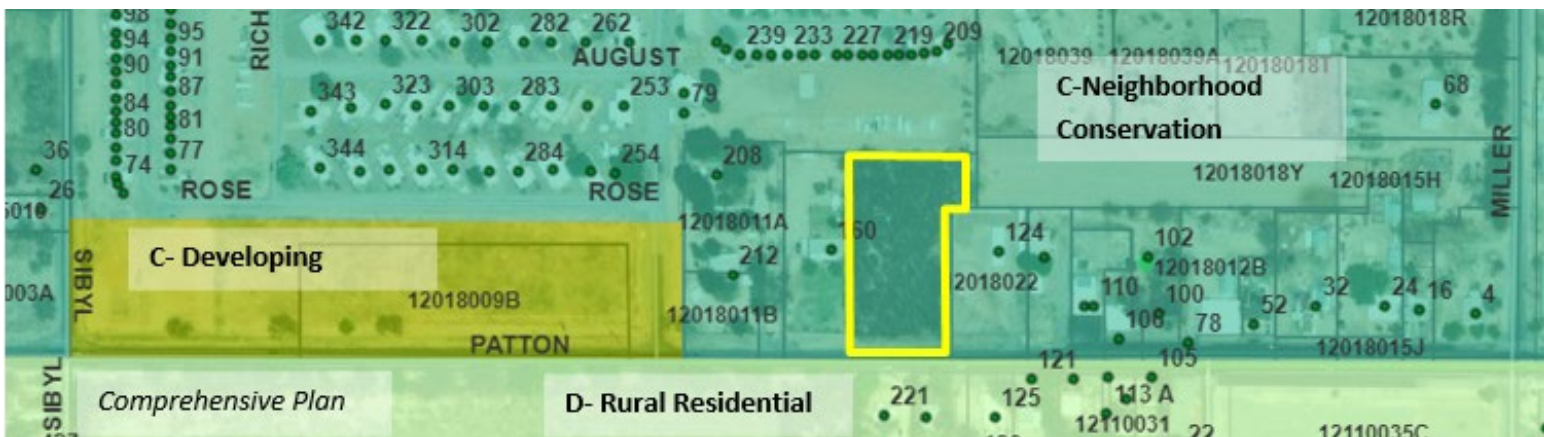
**III. NATURE OF REQUEST**

The Applicant, Caleb Malboeuf, is requesting a rezoning from R-18 (Residential, one dwelling per 18,000 square feet) to GB (General Business).

A Comprehensive Plan Amendment is included because the area designated as C- Neighborhood Conservation. This designation does not allow zoning for General Business. The Applicant is requesting to change the Neighborhood Conservation to Developing on the parcel.

These requests are intended to facilitate the construction of three (3) separate four-plexes, though all uses allowed under General Business Zoning would be allowed.

The properties located immediately to the east along Patton Road are all already zoned General Business. These parcels are developed with a mini-storage, apartment building, office and retail buildings and single family residences. The request to extend the General Business designation is a logical extension of the District.





**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 “C” Rural Community Area. The area is then designated as Neighborhood Conservation (NC). The NC designation does not allow for Commercial Zoning.

PLAN DESIGNATION	PERMITTED ZONING DISTRICTS
Neighborhood Conservation (NC)	R-36, R-18, R-9, NB, SM-36, SM-18, SM-9, SR-43, SR-22, SR-12, SR-8, MR-1, MR-2

*Above, Section 402 of the Zoning Regulations*

Section 404.01 defines Neighborhood Conservation as:

- A. The area to be designated as Neighborhood Conservation must be included in a Category A, B, or C Growth Area, established or enlarged in accordance with Subsections 403.01, 403.02, or 403.03.
- B. The area to be designated is a developed residential neighborhood that needs protection from nonresidential uses; or
- C. The area is an approved subdivision for which all required improvements are in place and constructed to minimum County standards

The area in question is located on State Highway between two significant streets(Miller and Sybil Roads) in Saint David. An existing RV/Manufactured Home park is located to the north of the proposed site. Directly to the east is a mini storage and an apartment building. Other uses in the area include retail and office uses and a recently approved rezoning to potentially allow a gas station. Staff considered expanding the Comprehensive Plan change to the entire north side of Patton between Miller and Sybil Roads. In an effort to not confuse the public and allow the comments to be focused on this particular request we elected not to. However, when the County updates the Comprehensive Plan this will be an area of focus for staff.



**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**

The proposal is intended to facilitate up to three four-plexes. A concept plan has been provided. The Plan shows the three separate buildings located in the center of the parcel with driveways on each sides. Each unit will have its own individual yard. However, the rezoning will allow the full range of uses allowed by the General Business district.

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

When building permits are submitted the Applicant will demonstrate that the site is large enough to accommodate the proposed use. Septic and Floodplain requirements are two big factors that could dictate the scope of development.

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

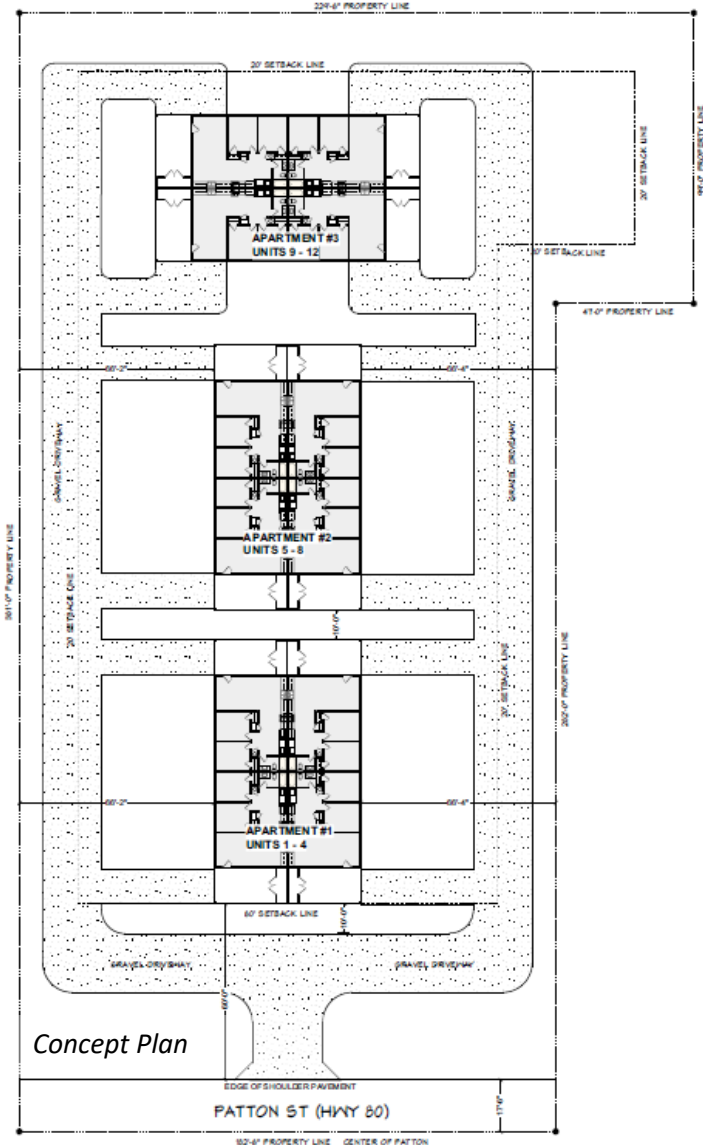
Surrounding properties are developed and remain able to develop further.

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

If approved, the rezoning would not create any non-conforming land uses.

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

The area is located on a State Highway 80 between Sybil and Miller Roads. There is existing commercial zoning to the east and one parcel to the west. Other uses in the area include a mini storage, two multi-tenant buildings, an apartment building and single family residences.



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

The proposed expansion is an extension of the existing commercial designation and a logical transition. The Applicant will be attempting to leave as much vegetation along the property lines as possible. The buildings are proposed near the center of the parcel, away from adjacent properties.

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

The applicant will be responsible obtaining approval and permits from ADOT. SSVEC provides service to the site and has no comments on the project. The applicant is planning to utilize Saint David Water Improvement District for water service. A septic system will be required.

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

The Applicant is proposing one driveway to the Highway. The driveway will be required to be paved where it connects to the Highway. A traffic impact statement is required. The Applicant will be required to obtain an encroachment permit from ADOT. ADOT did request the County to set aside development impact fees to help pay for the widening of the highway at this location. At this time the County does not have impact fees (DIFs) adopted. It may be possible that ADOT could ask for additional improvements based on the traffic impact statement.

**Recommended COAs**

1. The driveway is required to be paved to ADOT Specifications
2. The Applicant shall submit a Traffic Impact Statement to ADOT and the County for review and approval
3. The Applicant shall obtain an encroachment permit from ADOT.
4. Additional improvements as determined by the Traffic Impact Statement may be required. All improvements shall be completed prior to the issuance of the first certificate of occupancy



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

The area is located on State Route 80. This parcel is where the center turn lane tappers. ADOT has reviewed the request and has requested several items including a paved driveway, traffic impact statement. This Section of the highway is anticipated to be widen to extend the center turn lane. Recently, a rezoning was approved to the west of this location. The proposed use is a gas station. ADOT is requiring a traffic study be completed for that project. They also conditioned the approval to require the continuation of this lane through this project site. As mentioned above, ADOT has requested DIF be set aside for when the construction takes place. There are no DIFs in place at this time and this can not be accommodated. Any improvements specified in the traffic impact statement will be required to be completed prior to certificate of occupancy.



**10. Infill: Not applicable**

This area is not located in an existing Enterprise or Enterprise Redevelopment area; however, it is a logical extension of an existing commercial area.

**11. Unique Topographic Features: Complies**

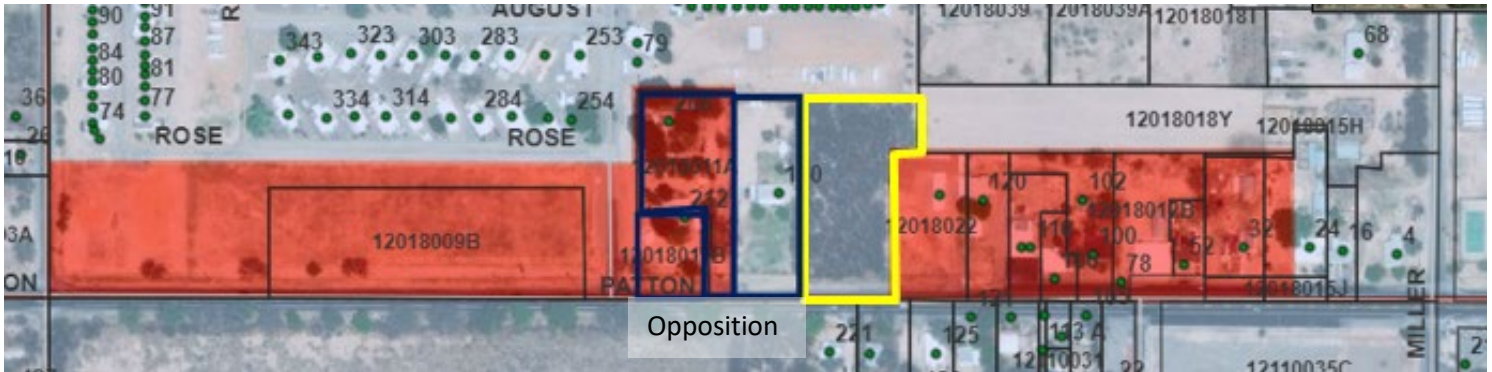
No unique topographic features exist that will prevent the development of the property. It should be noted that the entire area is located within a FEMA designated Flood Zone. This will require preparation of a drainage analysis, elevated pads, retention, and other drainage related improvements.

**12. Water Conservation: Complies**

The applicant will be provide minimal landscaping. Toilets and sinks will be low flow high efficiency fixtures.

**13. Public Input: Complies**

The applicant sent notices out to all property owners 1,000 feet. Staff mailed notices to the same neighboring property owners on February 3, 2023. Staff posted the property on February 15, 2023, and published a legal notice in the Herald/Review February 17, 2023. The Department received three responses opposition. It should be noted that two of the letters received are from parcel that are already zoned General Business.



**14. Hazardous Materials: Not Applicable**

There are no hazardous materials proposed.

**15. Compliance with Area Plan: Does not Comply**

The subject property is located in the Saint David Area Plan. Land Use Policy 2.2 states *Rezoning or SUPs to a Neighborhood Business (NB) zoning district in the Neighborhood Conservation (NC)-designated area to allow small scale, locally owned and operated neighborhood-serving businesses.* There are no Neighborhood Commercially zoned parcels within the Saint David Area Plan. All commercial areas are General Commercial, as is proposed with the request. This request could provide a wide range of permit uses including commercial or multi-family as proposed.



**IV. SUMMARY AND CONCLUSION**

The request is for a comprehensive plan amendment and accompanied rezoning, from R-18 (Residential, one dwelling per 18,000) to GB (General Business) on 1.7 acres. The Comprehensive Plan Amendment will facilitate the rezoning request.

**Factors in Favor of Approval**

1. The request complies with twelve of the 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. The request would provide additional housing options in the Saint David area.
4. The request is a logical extension of the existing commercial zoning.

**Factors Against Approval**

1. Three letters in opposition was received.
2. The request does not comply with one factor.

**V. RECOMMENDATION**

Based on the factors in favor of approval, Staff recommends forwarding the comprehensive plan amendment from C-Neighborhood Conservation to C-Developing and rezoning request, from R-18 (Residential, one dwelling per 18,000) to GB (General Business) on a 1.7-acre parcel to the Board of Supervisors with a recommendation of **conditional approval**, subject to the following project specific conditions:

1. The driveway is required to be paved to ADOT Specifications
2. The Applicant shall submit a Traffic Impact Statement to ADOT and the County for review and approval
3. The Applicant shall obtain an encroachment permit from ADOT.
4. Additional improvements as determined by the Traffic Impact Statement may be required. All improvements shall be completed prior to the issuance of the first certificate of occupancy.

