



Development Services

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MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Matthew Taylor, AICP, Planner II
FOR: Christine McLachlan, AICP, Planning Division Manager
SUBJECT: Docket RZ24-17 / CPA24-05 (Border Road)
DATE: October 9, 2024

Docket RZ24-17 / CPA24-05 (Border Road)

Comprehensive Plan and zoning amendment requests to change land use designation from *Neighborhood Conservation* to *Rural*; growth area category from *C – Rural Community Areas* to *D – Rural Areas*; and zoning district from *R-36 (Residential District, one dwelling per 36,000 square feet)* and *RU-4 (Rural District, one dwelling per 4 acres)* to *RU-18 (Rural District, one dwelling per 18 acres)*.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Applicant: Vici Seaver
Location: 856 E. Border Road
APN: 101-39-008K and 101-48-001M
Parcel Size: 34 acres
Current Zoning: R-36 and RU-4
Proposed Zoning: RU-18
Growth Area: C – Rural Community Areas
Plan Designation: Neighborhood Conservation
Area Plan: None
Existing Use: Single Family Residential
Proposed Use: Single Family Residential

Surrounding Zoning and Land Uses:

North	R-36, RU-4	Single Family Residential, Undeveloped
South	R-36, RU-4	Single Family Residential, Undeveloped
East	RU-4	Single Family Residential, Undeveloped
West	R-36, RU-4	Single Family Residential, Bisbee Municipal Airport

II. PARCEL HISTORY

- 1906-2020: Residential and accessory buildings; electric permit for well upgrade (#2020-0561).
 - No active code compliance actions
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III. COMPLIANCE WITH LAND USE CRITERIA

Cochise County Comprehensive Plan land use designations and growth area categories are designed to guide land development from a regional scale to individual parcels, promoting orderly development that preserves character, facilitates cohesive development, and encourages efficient uses of land. The Plan may be amended by major or minor amendment from time to time, and State law requires comprehensive plan updates at specific intervals, typically every 10 years. Plan updates ensure goals, objectives, and land use designations do not become obsolete due to rapid development, significant changes in use patterns, or anticipated development trends that have not occurred.

Plan amendments may be either major or minor.

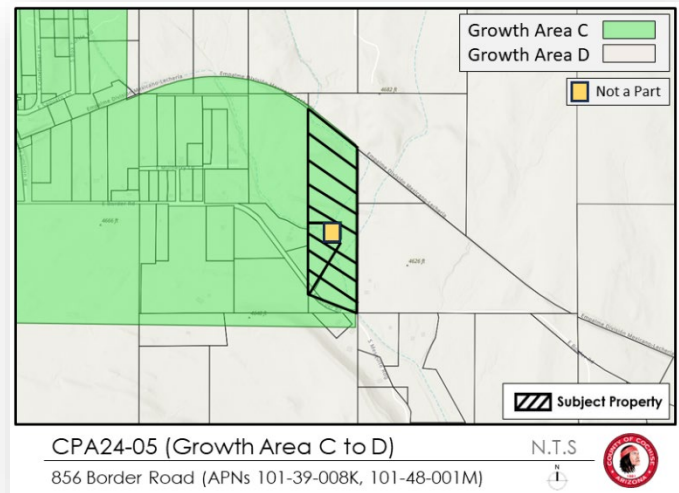
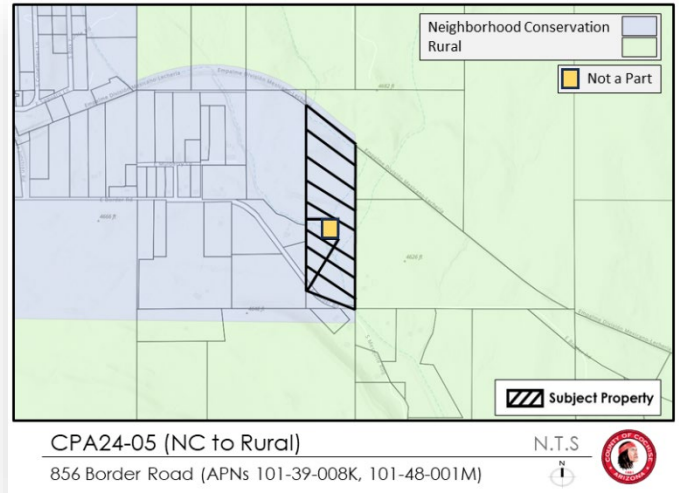
Major amendments involve a substantial alteration of Cochise County’s land use mixture or balance that increases potential densities or intensities of uses for an area of 2,000 acres or more. Minor amendments are requests that fall below the threshold of a major amendment. In this case, the applicant requests a minor Plan amendment, changing land use and growth area designations to facilitate a downzone to RU-18.

Section 302.A.2 of the plan identifies six (6) criteria used to evaluate Plan amendments. This request complies with two criteria (2), does not comply with one (1), and three (3) criteria do not apply.

1. Pattern of growth no longer reflects the type of growth expected in the current designation: Complies

The parcels are designated “Neighborhood Conservation” by the Comprehensive Plan and located within Growth Area C. General descriptions of these designations include:

- *Neighborhood Conservation: Areas with an established residential character; lot sizes are generally one acre or less; residential development that warrants protection from non-residential uses; common designation for residential development within approved subdivision with improvements built to county standards.*
- *Growth Area C (Rural Community Areas): Slow growing rural communities with low density residential development; small clusters of residential and non-residential development; variety of lot sizes; roads are generally unimproved; prevalent farming and ranching activities; non-residential uses serve rural/agricultural community and visitors passing through along major roadways.*



The parcels front Border Road, an improved County-maintained Rural Minor Collector. The subject property is in an area east of Bisbee Junction Road predominately zoned R-36 with lot sizes significantly larger, including several over ten acres. This area is surrounded by large parcels with Rural zoning classifications ranging from two or more acres. One of the subject parcels abuts RU-4 zoned lands while the other abuts smaller parcels with R-36 zoning. The easternmost six acres of parcel 008K are designated rural and growth area D by the plan.



The parcels are in an area with a mix of parcel sizes supporting low density residential development with a decidedly rural character. The Plan's existing "Neighborhood Conservation" is not an accurate representation of the prevailing development pattern beginning about ½ mile east of Bisbee Junction Road. The subject property and many other properties in the area are the result of successive metes and bounds descriptions, as most land division activity has occurred on a parcel-by-parcel basis and not through the county's subdivision approval process. Most parcels along and in the vicinity of Border Road ½ mile east of Bisbee Junction Road, including the subject properties, fit within the "Rural" or "Rural Residential" land use classification which is typified by residential development on lots of two acres or more. Residential zoning district assignment appears to be the result of an established rural development pattern and not an anticipation of future development. A significant increase in platted residential development consistent with neighborhood conservation goals has not occurred.

2. Substantial changes have occurred in the area: Not Applicable

This factor does not apply. Bisbee Junction development is characterized by a mix of small and large acreages with sporadic single family residences. Population increase has not been significant or accompanied by high density residential or non-residential business-related development. The development pattern has remained consistently low density residential on parcels ranging from just under one acre to more than 40 acres.

Like the first criterium, this factor anticipates amendment requests to allow more intense land uses or increases in residential densities in the planning area. The applicant is requesting rural zoning to increase minimum site are requirements to reduce allowed residential density and preserve and property's natural features.

3. Extension of urban standard facilities and services have changed the optimum type of appropriate development: Not Applicable

This factor does not apply. The parcels are located within Naco Fire District and served by Naco Water

Company (Hearthstone Water) with electric service provided by Arizona Public Service (APS). The applicant proposes continuing existing single family use of the property and is requesting a downzone in the attempt to secure long term site area and natural feature preservation of the parcels. Current zoning would allow several dozen residences to be built and downzoning to RU-18 limits that number to one. New driveways along Border Road are not proposed.

This criterium anticipates Plan amendments to allow more intense development that either requires or results in an extension or expansion of services. The applicant is proposing the opposite, downzoning the property to preserve the parcel's existing five acre size, reducing residential density allowed by the current zoning district, and to establish eligibility to participate in the county's owner-builder program. Facilities, services, and development patterns have not significantly changed in this area, suggesting a mix of residential densities on a wide range of lot sizes exceeding 2 acres and re-evaluation of current Plan designations during the 10-year update cycle are appropriate for several parcels along Border Road.

4. Substantial support from property owners: Does Not Comply

Nearby property owners have expressed support for previous Plan amendment and downzone applications, preferring to preserve existing large lot, low density residential development pattern along much of Border Road. Plan amendment applications require a 1000' notification area which in this case includes 28 individual parcels, including the applicant's two parcels. Planning staff has not received opposition to the Plan amendment or substantial support from property owners on the notification list.

5. "Developing" designations should be changed to another designation as a distinguishable pattern of development has occurred: Not Applicable

This factor does not apply. The applicant is requesting a Plan amendment to change the existing land use designation from "Neighborhood Conservation" to "Rural."

6. New designation provides a harmonious transition between existing designations: Complies

The applicant proposes a 'Rural' land use designation of the property. This designation involves sparsely populated areas with larger lot sizes, large expanses of private and public lands, and prominent agricultural uses.

Most of the subject property is designated as "Neighborhood Conservation" by the Plan, and this designation includes several properties north and west of the subject parcel with some less than one acre. However, most parcels to the east, including the subject parcels, are larger and approach the fringe of this land use designation. Generally, properties ¼ mile east of Bisbee Junction Road or more consist of larger acreages worthy of preservation through downzoning.

Successful plan and zoning amendments can appear out of place when looking at planning and zoning maps. In this case, requested land use designation and growth area category are adjacent to lands designated by the Plan and zoned rural, ensuring harmony with existing land uses. About six acres of the property already have rural land use designations (Rural, Growth Area D) and zoning classification (RU-4).

IV. COMPLIANCE WITH REZONING CRITERIA

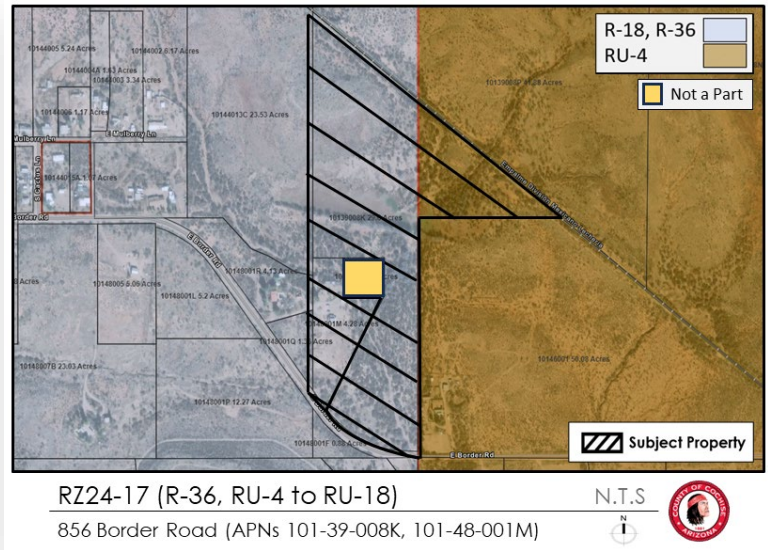
Section 2.63.080 of the zoning regulations requires zoning district boundaries be in accordance with comprehensive or area plan designations. In this case, the proposed rezone to RU-4 is consistent with the "Rural" comprehensive plan designation requested with the concurrent Comprehensive Plan application and complies with eight (8) of nine (9) applicable factors.

1. Adequate Land Use/Concept Plan: Does not Comply

The applicant has not provided a land use/concept plan of the parcels demonstrating existing improvements but has not indicated any intention to further improve the property.

2. Compliance with Applicable Site Development Standards: Complies

The parcels total about 34 acres and is subject to site development standards found in Section 2.15 of the zoning regulations, including setbacks, height, distances between structures, and lot coverage if the downzone to RU-18 is approved.



3. Adjacent Districts Remain Capable of Development: Complies

The requested downzone does not prevent surrounding properties from being developed in a manner consistent with their existing residential and rural zoning classifications.

4. Limiting Creation of Nonconforming Uses: Complies

Rezoning the property to RU-18 will not result in the creation of nonconforming uses since the property has been developed for single family use and existing improvements appear to meet applicable site development standards.

5. Compatibility with Existing Development: Complies

Per the rezoning application, the applicant intends to continue the existing rural residential use of the property. The area is characterized by lot sizes of about one acre to more than 40 acres with single family homes. Rural zoning allows some nonresidential uses but uses that could create obvious incompatibility and significant off-site impacts would require special use approval.

6. Rezoning to More Intense Districts: Not Applicable

A rezone to a more intense zoning district is not proposed. The applicant requests downzoning the subject property to RU-18, reducing residential density allowed by the current R-36 and RU-4 zoning districts.

7. Adequate Services and Infrastructure: Complies

The property takes access from Border Road, an improved and county-maintained Rural Local road. Water, power, and fire protection services are in place. The applicant is not proposing any non-residential uses for the property.

8. Traffic Circulation: Complies

The property has direct access via an existing driveway from Border Road, a hard-surfaced, county-maintained road. Downzoning the property will not require off-site improvements or roadway dedications. A

county right-of-way (ROW) permit is not required since new driveways are proposed.

9. Development Along Major Streets: Not Applicable

The intent of this factor is to consider limiting the number of access points on major thoroughfares, arterials, or collectors by using frontage roads, shared access, and no access easements. Incorporating such measures promotes fewer road cuts to avoid potentially unsafe traffic conflicts, hazardous traffic congestion, and roadway obstruction caused by traffic. The applicant does not propose new driveways accessing Border Road, a local roadway. The county will review any future driveways through the ROW permitting process.



10. Infill Compatibility: Not Applicable

This factor applies to rezoning requests to General Business (GB), Light Industry (LI), or Heavy Industry (HI) zoning districts.

11. Unique Topographic Features: Not Applicable

This factor applies to rezoning requests to more intense business or industrial zoning districts.

12. Water Conservation: Not Applicable

County-wide water conservation requirements identified in Section 2.51.170 of the zoning regulations apply to non-residential uses and properties.

13. Public Input: Complies

Applications to downzone property are not subject to Citizen Review requirements identified in the zoning regulations. Staff mailed notices to nearby property owners and published legal notice September 18, 2024, posting the property on September 23, 2024, without response from the public.

14. Hazardous Materials: Not Applicable

The property will retain its residential/rural character and hazardous materials are not proposed.

15. Planning Policies: Does not Comply

Parcel 001M (4.2 acres) and about 5 acres out of parcel 008K (29.6 acres) are designated "Neighborhood Conservation" by the Comprehensive Plan and RU-18 zoning is not consistent with this land use designation, requiring a plan amendment. The applicant has filed a concurrent plan amendment application to change both land use and growth area designations of parcel 001M and most of parcel 008K. The county typically supports downzones to less intense land uses that reduce residential densities

in rural areas and stress limited infrastructure.

V. SUMMARY AND CONCLUSION

The applicant proposes combining two parcels totaling about 34 acres and downzoning to RU-18 to preserve the large acreage and natural features of the property. Those portions of the property rezoned rural will allow current and future owners to participate in the county's owner-builder program. The county adopted the owner-builder amendment to encourage ingenuity by individual home owners in the interest of personal preference, allowing the use of alternate building materials and methods. Non-residential uses such as churches, communications towers, butcher shops, grocery stores, and veterinary clinics are allowed by right but are not being proposed by the applicant and the property's location may not be conducive to non-residential uses beyond a neighborhood scale.

Plan amendment and rezoning applications (Rural, Growth Area D, RU-4) were recently approved for a five acre parcel approximately 900' west of this property (RZ24-14/CPA24-04, approved September 24, 2024).

Plan Amendment – Factors in Favor

- Complies with two (2) applicable criteria used to analyze applicant-initiated comprehensive plan amendments:
 - Pattern of growth no longer reflects the type of growth expected in the current designation.
 - New designation is harmonious with existing designations.
- Three factors do not apply.
- No opposition from nearby property owners.

Plan Amendment – Factors Not in Favor

- Does not comply with one (1) applicable criteria used to analyze applicant-initiated comprehensive plan amendments:
 - The request does not have substantial support from nearby property owners.

Rezoning – Factors in Favor

- Complies with eight (8) of nine (9) applicable factors used to evaluate rezoning requests.
- Existing use is compatible with established low density residential growth pattern.
- Downzone reduces the number of allowed principal dwellings.
- No opposition from nearby property owners.

Rezoning – Factors Not in Favor

None identified.

VI. RECOMMENDATION

Based on the factors in favor of approval, Staff recommends forwarding Dockets RZ24-17 and CPA24-05 to the Board of Supervisors with a recommendation of approval without special conditions, the factors in favor constituting the findings of fact.

Sample Motion

Madam Chair, I move to recommend approval of Dockets RZ24-17 and CPA24-05 to the Board of Supervisors without special conditions, amending Comprehensive Plan designations and zoning district classification of tax parcels 101-39-008K and 101-48-001M from *Neighborhood Conservation* to *Rural; Growth Area C* to *Growth Area D*; and rezoning from *R-36* and *RU-4* to *RU-18*, the Factors in Favor of Approval constituting Findings of Fact.
