



COMMUNITY DEVELOPMENT DEPARTMENT
Planning, Zoning and Building Safety

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240
Fax 432-9278

Carlos De La Torre, P.E., Director

MEMORANDUM

TO: District 1 Board of Adjustment
FROM: Keith Dennis, Senior Planner
For: Michael Turisk, Interim Planning Director
SUBJECT: Docket BA1-11-06 (Pearson)
DATE: October 13, 2011, for the October 26, 2011 Meeting

APPLICATION FOR VARIANCES

Docket BA1-11-06 (Pearson): The Applicant is requesting a Variance to Section 1908.03 of the Zoning Regulations, which allows for a maximum of 80 square feet for Identification Signs. The Applicant seeks to legitimize the existing wall sign for the Family Dollar Store on Highway 92, which is 138 square feet.

The subject parcel (Parcel # 107-66-071) is located at 4155 S. Highway 92, in Sierra Vista, AZ. It is further described as being situated in Section 30 of Township 22, Range 21 East of the G&SRB&M, in Cochise County, Arizona.

Applicant: Ray Pearson of Pearson Signs

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Size: 1.17 Acres
Zoning: General Business
Growth Area: Category B Community Growth Area
Plan Designation: Enterprise
Area Plan: Sierra Vista Sub-Watershed
Existing Uses: Retail (Family Dollar Store with Identification Sign)
Proposed Uses: Unchanged

Surrounding Zoning

Relation to Subject Parcel	Zoning District	Use of Property
North	GB	Vacant Land
South	MH-72	Liquor Store
East	MH-72	Manufactured Home Residential
West	GB	Highway 92 ROW

II. PARCEL HISTORY

2002 – Permit issued for construction of Family Dollar Store;
2003 – Permit issued for construction of a 78 square foot wall sign, and 60 square foot pole-mounted Identification Sign; however, the company installed a wall sign that was 115 square feet in size, 37 square feet larger than what was permitted;
2009 – Permit to replace existing light pole;
2011 – (August) Violation for building without a permit – this Violation was for the wall sign that currently exists on the property. The Applicant then applied for the sign permit, only to learn that the sign as constructed was beyond the 80 square feet allowance for Identification Signs in a General Business District. The Applicant then applied for a permit for the sign, which is on hold pending the outcome of this Docket.

III. PROJECT DESCRIPTION

The Applicant, Ray Pearson of Pearson's Signs, seeks a permit to legitimize the new 138-square foot Family Dollar Store wall sign. On the Variance application, the Applicant conveys that "Family Dollar believes if smaller signage is installed, hazardous traffic conditions could result."



Looking Northeast at the Family Dollar Store on S. Highway 92. The wall-mounted sign was replaced with the larger sign, seen above.

IV. ANALYSIS OF IMPACTS

The wall-mounted sign is classified as an Identification Sign per Article 19 of the Zoning Regulations. The allowable size of an Identification Sign is up to 80 square feet. The Applicant replaced the permitted 78 square foot wall sign with a 138 square foot wall-mounted sign, approximately 150% of the maximum allowable size.

After staff issued the citation for installing the sign without a permit, the Applicant applied for a commercial permit. The County Building Official analyzed the sign against the County Light Pollution Code. The code measures light trespass, and is somewhat lenient in requirements for internally-illuminated signs of this type, so long as the surface being illuminated is primarily composed of dark colors. As such, the sign was deemed compliant with the code from a qualitative (color) standpoint. However, the light color of the building behind the sign, and the

white background of the sign does create a quantifiable increase of light at night. During the commercial permitting process, whenever there is some doubt about light pollution code compliance, inspectors may use a light meter to measure trespass. If the Board approves the Variance, staff will measure the light trespass from the sign prior to closing the permit. If the sign is found to be too bright, the interior lighting would have to be reduced to an acceptable level, otherwise a Special Use Permit would be required (Variances to the light pollution code are allowed by Special Use only).

Moreover, Section 1203.06 of the Zoning Regulations states that “no use shall be permitted...which creates harsh, uncomfortably bright light detectable beyond the boundaries of the site.” Members of the Board may be inclined to see for themselves if the sign as it exists meets this test.

In any case, at 150% of the allowable square footage for such signs, the light impact of the sign may be due to the size of the sign. If the sign met the 80 square foot requirement, the light impact to the area would be reduced as a matter of course.

V. PUBLIC COMMENT

The Department sent notices to neighboring property owners within 300 feet. Staff posted the property on October 10, 2011 and advertised the request in the *Bisbee Observer* on October 6, 2011. To date, the Department has received one letter from a neighboring property owner opposing the Variance request. The attached letter of opposition states “I am not a believer of those who break rules and ask for forgiveness. Follow the rules – 80 square feet is sufficient.”

VI. SUMMARY AND CONCLUSION

Factors in Favor of Approval

1. Given the location of the project site along a major transportation corridor with a wide Right-of-Way, the request to allow the oversized sign to remain as it currently exists is unlikely to cause significant off-site impacts to the surrounding area.
2. The County government has been engaged in an ongoing effort to make government operations, administration of Zoning and other regulations, and permitting requirements more “business friendly.” Allowing the sign to remain would reinforce this effort.

Factors Against Approval

1. The sign was constructed without a permit;
2. Although Board of Adjustment cases are considered on a case by case basis and are not considered as “precedent setting,” a favorable ruling on this Docket could be taken as such by the public or business community;
3. The size restrictions in the County sign code are intended to prevent a crowded visual appearance that could result in a degradation of area views. The fact that the internally-

illuminated sign is 150% of the maximum allowable size means that the sign has a higher light impact than it would if sized according to the regulations.

4. One neighboring property owner opposes the request.

VII. RECOMMENDATION

Based on the factors against approval, Staff recommends **denial** of the Variance request. Note, however, that the sample motion provided below is worded in the affirmative for clarity.

Sample Motion: *Mr. Chair, I move to approve Docket BA1-11-06, granting the wall-sign Variance as requested by the Applicant; the Factors in Favor of approval constituting the Findings of Fact.*

VIII. ATTACHMENTS

- A. Variance Application
- B. Location Map
- C. Public Comment



COMMUNITY DEVELOPMENT DEPARTMENT

Planning, Zoning and Building Safety
1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240
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APPLICATION FOR VARIANCE

6:00 PM

DESIRING A VARIANCE FROM THE TERMS OF THE COCHISE COUNTY ZONING REGULATIONS:

TO THE HONORABLE BOARD OF ADJUSTMENT, DISTRICT 1

I (we), the undersigned, hereby petition the Cochise County Board of Adjustment, District 1 to grant a variance from the terms of the Cochise County Zoning Regulations as follows:

(Note: Complete all the following items. If necessary, attach additional sheets.)

1. Tax Parcel Number: 107-66-071

2. Address of Parcel: 4155 S. Hwy 92 Sierra Vista, AZ 85650

3. Area of Parcel (to nearest tenth of an acre): _____

4. Zoning district classification of parcel: _____

5. Describe existing uses of the parcel and the size and location of existing structures and buildings on it. Parcel is currently used as a retail location for

Family Dollar store #5918.

6. Describe all proposed uses or structures, which are to be placed on the property.

This parcel is used as a retail location for Family Dollar store # 5918.

COCHISE COUNTY

AUG 31 2011

PLANNING

7. State the specific nature of the variance or variances sought, identifying the applicable section or sections of the Cochise County Zoning Regulations.

The variance is sought for wall signage that exceeds 80 sqft. Cochise County Zoning Regulation 1908.03.

8. A variance may be granted only when, due to any peculiar situation surrounding a condition of a specific piece of property, including unusual geographic or topographic conditions, strict application of the Zoning Regulations would result in practical difficulties or unnecessary hardship to the property owner. In granting variances, however, the general intent & purpose of the Zoning Regulations will be preserved. (See Section 2103.02 on variances (attached) Describe the reasons for requesting the variance and attach any documents necessary to demonstrate compliance with the provisions cited in #7 above.

Family Dollar believes if smaller signage is installed, hazardous traffic conditions could result. Due to the store's location from the road, motorist may have a difficult time locating the store. Please see the attached rendering of the existing signage and the proposed smaller signage. The height of the previous signage and the current proposed variance signage are the same.

9. State why the variance would not cause injury to or impair the rights of surrounding property owners. Identify conditions you propose, if any, to minimize the impact on surrounding properties. It shall be the responsibility of the applicant to submit any studies and/or data necessary to demonstrate the effectiveness of the alternative conditions.

Family Dollar does not believe this will impair surrounding property owners as the neighboring parcels are currently vacant. Please see attached.

10. List the name and address of all owners of the parcel(s) for which the variance is sought.

PROPERTY OWNER

ADDRESS

Jack D. Thorburn & Margaret C. Thorburn 233 Trout Lake Dr. Sanger, CA 93657

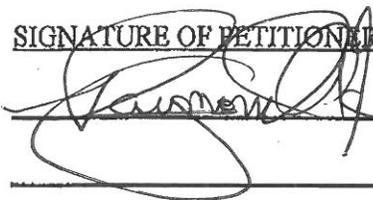
The undersigned hereby certifies and declares that to the best of his/her knowledge and belief the data submitted on and attached to this application for a variance from the terms of the Cochise County Zoning Regulations are true and correct.

SIGNATURE OF PETITIONER

ADDRESS

DATE

8/29/11

 3162 E. 47th St, Tucson, AZ 85713

APPLICANT'S PHONE NUMBER 520-792-2563

APPLICANT'S EMAIL ADDRESS RAY@PEARSONSIGNS.NET

Note: Each application shall be accompanied by an accurate site plan showing the parcel of land and the existing and proposed structures and buildings on it, and shall be accompanied by a check in the amount of three hundred (\$300) payable to the Cochise County Treasurer. Return to the Cochise County Community Development Department, 1415 Melody Lane, Building E, Bisbee, Arizona, 85603.



Docket BA1-11-06 Location Map

This map is a product of the
Cochise County GIS



Variance: Docket BA1-11-06 (Pearson)

YES, I SUPPORT THIS REQUEST

Please state your reasons:

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

I AM NOT A BELIEVER OF THOSE WHO BREAK RULES & ASK FOR FORGIVENESS.

FOLLOW THE RULES - SO IT IS SUFFICIENT

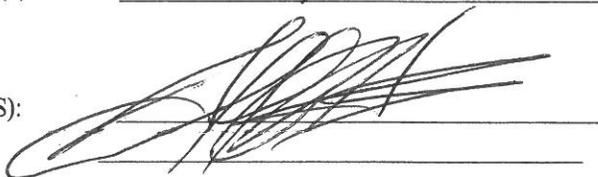
YOU MADE THEM ON OCT 11, 2011 & REQUICKED IT BACK ON OCT 17, 2011?

(Attach additional sheets, if necessary)

PRINT NAME(S):

GEORGE HAVEN

SIGNATURE(S):



YOUR TAX PARCEL NUMBER: 107-66-051B (the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Board of Adjustment Dist 1. Upon submission this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. To ensure adequate review time by members of the Board, this form is due to our Department by Monday, October 17, 2011

RETURN TO: Keith Dennis
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

COCHISE COUNTY

OCT 17 2011

PLANNING



COMMUNITY DEVELOPMENT DEPARTMENT
Planning, Zoning and Building Safety

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Carlos De La Torre, P.E., Director

MEMORANDUM

TO: District 1 Board of Adjustment
FROM: Keith Dennis, Senior Planner
For: Michael Turisk, Interim Planning Director
SUBJECT: Docket BA1-11-07 (Slawson)
DATE: October 13, 2011, for the October 26, 2011 Meeting

APPLICATION FOR VARIANCES

Docket BA1-11-07 (Slawson): The Applicant seeks to establish a retail card and game shop along Fry Blvd in Sierra Vista, and is requesting the following Variances to site development standards per the Cochise County Zoning Regulations:

Section 1203.03 (site coverage); 1804.06.F.3 (driveway width); 1806 (landscaping); 1804.05 (required parking – 18 required, proposes 5); 1908.03.A.1(a) (Maximum number of free-standing signs); 1203.02 and 1803 (setbacks); and 1807.02.B.1 (access within 200 feet of an arterial road intersection).

The subject parcel (Parcel # 106-70-111) is located at 689 E. Fry Blvd in Sierra Vista, AZ. It is further described as being situated in Section 34 of Township 21, Range 20 East of the G&SRB&M, in Cochise County, Arizona.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Size: 22,487 square feet (0.52 Acres)
Zoning: General Business
Growth Area: Category A Urban Growth Area
Plan Designation: Enterprise Redevelopment
Area Plan: Sierra Vista Sub-Watershed
Existing Uses: Unoccupied Warehouse Space
Proposed Uses: Retail and Indoor Recreation

Surrounding Zoning

Relation to Subject Parcel	Zoning District	Use of Property
North	GB	Commercial
South	City of Sierra Vista	Commercial
East	City of Sierra Vista	Commercial
West	City of Sierra Vista	Commercial

II. PARCEL HISTORY

There are three structures on the property: two retail storefront structures and one storage/utility building at the North side of the property. The retail buildings were constructed in 1969; the storage building was built in 1971, but has been in use over time as both storage and retail.

Over the 40+ year life span of this retail area, there have been numerous tenants occupying the buildings, such as a jewelry shop, tattoo parlor, gun dealership, auto parts and service, and motorcycle shops. There have also been numerous permits pulled by various owners of the property over this time, for tenant improvements, re-roofs, block fencing, gas lines, and so on. The space in which the business is proposed has been used primarily as warehouse space, and is currently vacant.

In 2010, a violation for construction without a permit was issued to the current owner, who remedied the violation through a permit for gas compliance.

III. PROJECT DESCRIPTION

The Applicant, Fred Slawson, seeks to establish his business in one of the vacant tenant spaces on the property. Namely, at the Northeast corner of the property, in what was originally constructed as a storage building. This area was most recently used as storage; prior to that, as a parts and service auto center.

The proposed business is called Orbital Games Café, which would be a card and game shop, wherein patrons may also play table-top board games, card and other games with other customers. He estimates that 60% of the business will consist of such indoor recreational activities; the retail portion of the business would account for the other 40% of business activities/revenues.



Northwest view of the proposed Orbital Games Café. The building has primarily been used as warehouse space since the early 1970s.

As such, the Applicant has applied for a land use permit to change the use of the tenant space from warehousing to retail and indoor recreation, both of which are permitted uses in a General Business District. The change of use triggers a re-evaluation of the site's compliance with applicable site development standards. The deficiencies discovered by the County permitting staff during this process resulted in the Variance Docket now under consideration.

IV. ANALYSIS OF IMPACTS

The Variances requested are aimed at legitimizing existing site conditions per the current Zoning code. Because the site has been established and used for a variety of primarily retail uses over a period of more than 40 years, any impacts that would be generated by the re-establishment of a retail or even indoor recreational use at this location have been long established, and do not, to the County's knowledge, pose any problem to the neighborhood. Although the Applicant's bid to establish an indoor recreation use at this location is technically classified as a land use category separate from retail, the day to day operation of the business will still be characteristic of a retail operation (even if the exterior retains characteristics of a warehouse). The Applicant's estimate that 40% of the revenue of the business will come from the retail component reinforces this point. Staff has no concerns or issues with the Variances requested, which would legitimize the existing site conditions on this property. This includes all of the Variances under consideration: site coverage, landscaping, driveway width, parking requirements, signage, setbacks, and access within 200 feet of an arterial.

The Planning Division does have one concern regarding this property, and that is ensuring that future tenants or the owner do not have to re-apply for Variances should the use change in a different tenant space. For instance, if one of the other retail spaces on the parcel were to change uses, thus requiring a new use permit, staff's position is that the new use should not have to go through a new Variance process. Staff therefore recommends a condition of approval that would make it clear that the Variances considered for this Docket would 1) apply to the entire parcel, including all tenant spaces regardless of use, and 2) be granted in perpetuity for any and all uses on the parcel, so long as those land uses are permitted principal uses in a GB District. Should the Board adopt this condition, the Planning staff would ensure that the parcel records are updated to reflect the approval of the Variances. The condition would apply to any new uses as long as such uses are permitted in the GB District; a Special Use Permit or rezoning would then be the trigger for future reviews for site development standard compliance.

V. PUBLIC COMMENT

The Department sent notices to neighboring property owners within 300 feet. Staff posted the property on October 10, 2011 and advertised the request in the *Bisbee Observer* on October 6, 2011. To date, the Department has received no correspondence regarding the proposal from within the 300-foot notification area.

VI. SUMMARY AND CONCLUSION

Factors in Favor of Approval

1. The property has been home to dozens of retail and other commercial uses over a period of over 40 years. The site development issues raised during the permit process came about as a result of a change of land use, which triggers development review against current standards.

2. As such, allowing the Variances as requested would not produce or exacerbate any off-site impacts that have not already been occurring over that period.
3. The site is within an Enterprise Redevelopment area designation, per the Comprehensive Plan. Flexibility with regard to development standards is encouraged in such areas in order to stimulate investment and economic growth.

Factors Against Approval

None Apparent.

VII. RECOMMENDATION

Based on the factors in favor of approval, Staff recommends **approval** of each of the eight Variances as requested, subject to the following condition:

1. The Variances granted for Docket BA1-11-07 shall apply to the entire parcel (106-70-111), and all the structures and uses thereon, for all current and future uses, so long as such uses are classified as principal permitted uses in a General Business Zoning District.

Sample Motion: *Mr. Chair, I move to approve Docket BAI-11-07, granting each of the Variances as requested by the Applicant, with the condition of approval recommended by staff; the Factors in Favor of approval constituting the Findings of Fact.*

VIII. ATTACHMENTS

- A. Variance Application
- B. Location Map
- C. Site Plan



COMMUNITY DEVELOPMENT DEPARTMENT

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COCHISE COUNTY

APPLICATION FOR VARIANCE

SEP 09 2011

PLANNING
DESIRING A VARIANCE FROM THE TERMS OF THE COCHISE COUNTY ZONING REGULATIONS:

TO THE HONORABLE BOARD OF ADJUSTMENT, DISTRICT 1.

I (we), the undersigned, hereby petition the Cochise County Board of Adjustment, District 1 to grant a variance from the terms of the Cochise County Zoning Regulations as follows:

(Note: Complete all the following items. If necessary, attach additional sheets.)

1. Tax Parcel Number: 10670111

2. Address of Parcel: 689a E Fry Blvd

3. Area of Parcel (to nearest tenth of an acre): _____

4. Zoning district classification of parcel: _____

5. Describe existing uses of the parcel and the size and location of existing structures and buildings on it. Retail warehouse service 2 buildings on Fry Blvd

45x48 with 38' clearance between 43' behind is 120x40 metal building
in three sections. section of metal building on the 6th street edge is to be orbital
a 11.5 x 28 shed is adjacent to far west edge of metal building

6. Describe all proposed uses or structures, which are to be placed on the property.

689a the section of the metal building furthest east will be a retail
and indoor recreation establishment, a sign on the metal building of 3x10'
and a sign at the western corner of the eastern front building is proposed

7. State the specific nature of the variance or variances sought, identifying the applicable section or sections of the Cochise County Zoning Regulations.

1203.03 - site coverage - needs 85% - shows 100%

1804.06.F.3 - DW width

1806 - landscaping

1804.05 - Parking - needs 18 - shows 5

1908.03.A.1(a) - Second sign wanted to face Fry Blvd.

8. A variance may be granted only when, due to any peculiar situation surrounding a condition of a specific piece of property, including unusual geographic or topographic conditions, strict application of the Zoning Regulations would result in practical difficulties or unnecessary hardship to the property owner. In granting variances, however, the general intent & purpose of the Zoning Regulations will be preserved. (See Section 2103.02 on variances (attached) Describe the reasons for requesting the variance and attach any documents necessary to demonstrate compliance with the provisions cited in #7 above.

The property was already constructed many years ago and is in a heavily developed part of town, changing the site would be unfeasible

9. State why the variance would not cause injury to or impair the rights of surrounding property owners. Identify conditions you propose, if any, to minimize the impact on surrounding properties. It shall be the responsibility of the applicant to submit any studies and/or data necessary to demonstrate the effectiveness of the alternative conditions.

there is no proposed construction or activity that projects beyond the property
times of peak activity are after normal business hours

10. List the name and address of all owners of the parcel(s) for which the variance is sought.

PROPERTY OWNER

ADDRESS

Dave Perryman

2424 El Camino Real

The undersigned hereby certifies and declares that to the best of his/her knowledge and belief the data submitted on and attached to this application for a variance from the terms of the Cochise County Zoning Regulations are true and correct.

SIGNATURE OF PETITIONER

ADDRESS

DATE



5147 De Medici

8 Sept 11

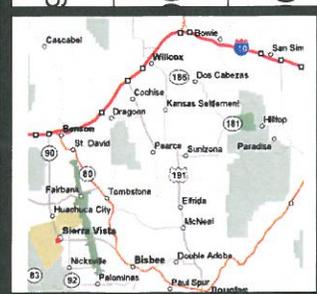
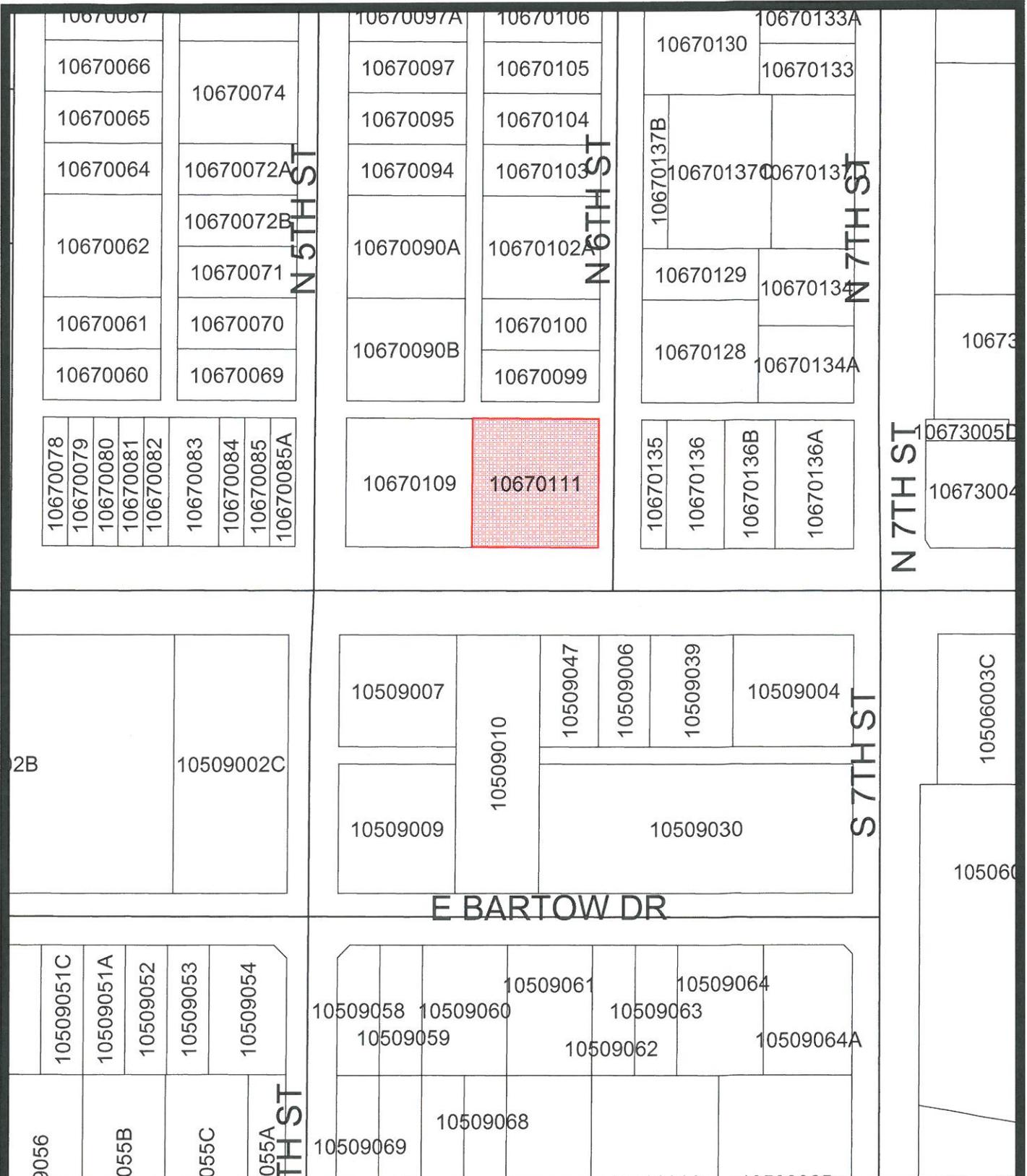
APPLICANT'S PHONE NUMBER

520 678 4362

APPLICANT'S EMAIL ADDRESS

Orbitalgamecafe@gmail.com

Note: Each application shall be accompanied by an accurate site plan showing the parcel of land and the existing and proposed structures and buildings on it, and shall be accompanied by a check in the amount of three hundred (\$300) payable to the Cochise County Treasurer. Return to the Cochise County Community Development Department, 1415 Melody Lane, Building E, Bisbee, Arizona, 85603.



Docket BA1-11-07
Location Map

This map is a product of the Cochise County GIS

