

NOTICE OF MEETING

Planning and Zoning Commission
April 14, 2010
Cochise County Complex
Board of Supervisors Hearing Room
1415 W. Melody Lane, Building G
Bisbee, Arizona

AGENDA

4:00 P.M. CALL TO ORDER

THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING.

ROLL CALL (Introduce Commission members, explain quorum and requirements for taking legal action.)

(Also explain procedure for public hearing, i.e., after Planning Director's Report, Applicant will be allowed 10 minutes, other persons will each have 5 minutes to speak and Applicant can have 5 minutes for rebuttal at end.)

APPROVAL OF PREVIOUS MINUTES - (Call for motion to approve the minutes of the March 10, 2010 Meeting)

CALL TO THE PUBLIC (Ask if any member of the public wishes to speak on any item not already on the agenda).

NEW BUSINESS

Item 1 (Page 1) - Introduce Docket and advise public who the applicants are.

Public Hearing, Docket SU-10-05: The Applicant seeks a Special Use Permit in order to establish and operate a farm equipment repair/metal fabrication operation, per Section 607.16 of the Cochise County Zoning Regulations. The operation is to take place in an existing Quonset hut which is approximately 1,200 square feet, a proposed 3,200 square foot shop, a 9' x 45' storage container, and associated outdoor storage. The business would include agriculture-related welding, metal fabrication and incidental small repairs. The subject parcel (305-73-020) is located at 3911 E. Shelton Road in Kansas Settlement, AZ.

Applicant: Jonathan Schmidt.

- Call for PLANNING DIRECTOR'S REPORT
- Call for APPLICANT'S STATEMENT
- Declare PUBLIC HEARING OPEN
 - Call For COMMENT FROM OTHER PERSONS (either in favor or against)
 - Call for APPLICANT'S REBUTTAL (if APPROPRIATE)
- Declare PUBLIC HEARING CLOSED
- Call for COMMISSION DISCUSSION (May ask questions of the applicant)
- Call for PLANNING DIRECTOR'S SUMMARY AND RECOMMENDATION
- Call for MOTION
- Call for DISCUSSION OF MOTION
- Call for QUESTION

ANNOUNCE ACTION TAKEN - (Note: Any individual disagreeing with this action has the right to appeal to the Board of Supervisors within 15 days. An application for appeal is available tonight with the Clerk, at our office Monday through Friday between 8 A.M. and 5 P.M., or anytime on our webpage in the "Permits and Packets" link)

Item 2 (Page 21) - Introduce Docket and advise public who the applicants are.

Public Hearing, Docket SU-10-07: The Applicant seeks a Special Use Permit in order to establish and operate a goat cheese making operation with up to 30 goats in milk production on the 40-acre parcel, and to supplement on-site power needs with two additional 55 foot tall wind turbines (one currently exists on the property and serves the existing single family residence). The applicable Sections of the Zoning Regulations are 607.37 (Agricultural Processing) and 1822.02.B (which requires an SUP for more than two wind turbines on any parcel). The subject parcel (104-62-001P) is located at 11432 S. Triple R Ranch Road in Palominas, AZ.

Applicant: J. C. Mutchler.

FOLLOW FORMAT FOR ITEM 1

ANNOUNCE ACTION TAKEN - (Note: Any individual disagreeing with this action has the right to appeal to the Board of Supervisors within 15 days. An application for appeal is available tonight with the Clerk, at our office Monday through Friday between 8 A.M. and 5 P.M., or anytime on our webpage in the "Permits and Packets" link)

Item 3 (Page 54) - Introduce Docket and advise public who the applicants are.

Public Hearing, Docket SU-10-04: The Applicant seeks a Special Use Permit in order to legitimize an existing 70' x 1,200' private airstrip and 3,000 square foot hangar on a 61.2-

acre parcel, pursuant to Section 607.14 of the Cochise County Zoning Regulations. The subject parcel (104-80-013A) is located at 11647 S. Apache Sky Road in Palominas, AZ.

Applicant: Glen Spencer of Alan Nelson, LLC.

FOLLOW FORMAT FOR ITEM 1

ANNOUNCE ACTION TAKEN - (Note: Any individual disagreeing with this action has the right to appeal to the Board of Supervisors within 15 days. An application for appeal is available tonight with the Clerk, at our office Monday through Friday between 8 A.M. and 5 P.M., or anytime on our webpage in the "Permits and Packets" link)

Item 4 (Page 107) - Introduce Docket and advise public who the applicants are.

Public Hearing, Docket SU-10-06: The Applicant seeks a Special Use Permit in a RU-4 zoning district (Rural; minimum lot size 4 acres) to legitimize the placement and rental of 35 storage containers (approximately 160 sq.-ft. each) on the site of the Security Plus Self Storage of Bisbee facility located at 101 S Taylor Rd. just outside of incorporated Bisbee and south of State Route 92. The Applicant also owns two adjacent parcels (102-15-118 and 119) that are under the jurisdiction of the City of Bisbee; those properties are also used as part of the self storage facility. The Applicant has requested several site development standard modifications, including the minimum 40 foot setback requirement for Special Uses in the Rural zoning districts to allow storage containers to remain approximately 3 feet from the north and south property boundaries, per Section 604.03 of the Zoning Regulations. In addition, the Applicant has requested a modification of the minimum parking and loading area improvement requirements for commercial uses in Category B Growth Areas to allow for the existing native surface, per Section 1804.07C, and the minimum landscaping requirements for commercial uses in Category B Growth Areas, per Section 1806.02B. Also, the Applicant seeks modifications of the minimum parking area design standard requirements, per Section 1804.09 and the requirement that two-way driveways be a minimum of 24 feet in width, per Section 1804.06F(3). The subject parcel (tax parcel id number 102-15-121) is located at 101 S. Taylor Rd. in unincorporated Bisbee.

Applicant: Christopher Borchard for Security Plus Self Storage of Bisbee.

FOLLOW FORMAT FOR ITEM 1

ANNOUNCE ACTION TAKEN - (Note: Any individual disagreeing with this action has the right to appeal to the Board of Supervisors within 15 days. An application for appeal is available tonight with the Clerk, at our office Monday through Friday between 8 A.M. and 5 P.M., or anytime on our webpage in the "Permits and Packets" link)

Item 5 (Page 168) - Introduce Docket and advise public who the applicants are.

Public Hearing, Docket SUA-02-10: The Applicant seeks a Modification of Special Use Permit SU-91-06 (approved in 1991 for a private airstrip, accessory uses and structures), to allow for the construction of a six bedroom guesthouse and six additional single-family residences, pursuant to Section 607.01 of the Cochise County Zoning Regulations. The Applicant would also construct a private gymnasium to accommodate additional personnel and their families, pursuant to Section 607.07. The subject parcel (tax parcel id number 404-11-023) is zoned RU-4 (Rural; minimum lot size 4 acres) and is located approximately one-third of a mile east of the McNeal town site at 3870 Davis Rd.

Applicant: Walter Durfey for New Tribes Mission Aviation.

FOLLOW FORMAT FOR ITEM 1

ANNOUNCE ACTION TAKEN - (Note: Any individual disagreeing with this action has the right to appeal to the Board of Supervisors within 15 days. An application for appeal is available tonight with the Clerk, at our office Monday through Friday between 8 A.M. and 5 P.M., or anytime on our webpage in the "Permits and Packets" link)

Item 6 (Page 204) - Introduce Docket and advise public who the applicants are.

Study Session, Docket R-10-02: Study session to consider an amendment to the whole of the "Cochise County Hazard Abatement Ordinance" to abate/remove rubbish, trash, weeds, filth, debris or damaged or dilapidated buildings which constitute a hazard to public health and safety and which may be compelled to be removed, with due process, from buildings, grounds, lots, contiguous sidewalks, streets and alleys within the unincorporated areas of the County. The Ordinance outlines the due process for formal notification, removal by the County and recovery of costs for removal and appeal processes for property owners with hazardous materials.

DIRECTOR'S REPORT ON PENDING AND RECENT MATTERS AND FUTURE AGENDA ITEMS

1. Board of Supervisors Actions
2. Next and potential future month's Dockets

CALL TO COMMISSIONERS ON RECENT MATTERS

ADJOURNMENT

**COCHISE COUNTY PLANNING & ZONING COMMISSION
MINUTES**

Wednesday, March 10, 2010

The regular meeting of the Cochise County Planning & Zoning Commission was called to order at 4:00 p.m. by Chair Basnar at the Cochise County Complex, 1415 Melody Lane, Building G, Bisbee, Arizona in the Board of Supervisors Board Room.

ROLLCALL

Chair Basnar noted the presence of a quorum. He then introduced the Commissioners to the public. Chair Basnar then explained to the audience the procedures for considering a docket.

Roll Call.

Present: Jim Martzke, Duane Brofer, Lee Basnar, John Wendle, Ron Bemis, Gary Brauchla.

Absent/Excused: Rusty Harguess, Pat Edie, Cruz Silva.

APPROVAL OF THE MINUTES

Motion: Susana Montana mentioned Mr. Silva was absent from the January 2010 meeting, **Action:** Approve correction, **Moved by** Jim Martzke, **Seconded by** Duane Brofer.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Jim Martzke, Duane Brofer, Lee Basnar, John Wendle, Ron Bemis, Gary Brauchla.

Absent: Cruz Silva.

Motion: Minutes of January meeting, **Action:** Approve, **Moved by** Jim Martzke, **Seconded by** Duane Brofer.

Vote: Motion passed (**summary:** Yes = 5, No = 0, Abstain = 1).

Yes: Jim Martzke, Duane Brofer, John Wendle, Ron Bemis, Gary Brauchla.

Abstain: Lee Basnar.

Absent: Cruz Silva. (Mr. Silva arrived at 4:25 p.m.)

CALL TO THE PUBLIC

Chair Basnar opened the meeting to the public, being there was no one who wished to speak; Chair Basnar closed the "Call to the Public"

Item 1

Study Session, Docket R-09-02, Hazard Abatement Ordinance study session.

Motion: Table R-09-02 until the April meeting, **Action:** Table, **Moved by** Jim Martzke, **Seconded by** Duane Brofer.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6).

Yes: Jim Martzke, Duane Brofer, Lee Basnar, John Wendle, Ron Bemis, Gary Brauchla.

Absent: Cruz Silva.

Item 2

Docket SU-09-06: Planner Michael Turisk asked the Commission to remove the docket from the table.

Motion: Remove from table, Action: Remove from Table, **Moved by** John Wendle, **Seconded by** Jim Martzke.

Vote: Motion carried by unanimous roll call vote (**summary:** Yes = 6). **Yes:** Jim Martzke, Duane Brofer, Lee Basnar, John Wendle, Ron Bemis, Gary Brauchla. **Absent:** Cruz Silva.

Mr. Turisk presented the docket for an application for a Special Use Permit in an RU-4 District to allow for a dog breeding facility/kennel to breed up to 10 dogs and accommodate up to 15 'non-breeding, retired stock dogs', pursuant to §607.06 (Animal Hospitals, Veterinary Clinics and Animal Husbandry Services) of the County Zoning Regulations. The proposed Special Use includes the construction of a 720 square foot structure that would include a sick bay, cleaning and grooming room and a whelping unit, as well as six, 120 square foot dog runs. The eight-acre subject parcel (tax parcel # 208-26-014D) is located at 1338 W. Appaloosa Ln. in Benson. Mr. Turisk explained surrounding zoning and presented photos of the property. He then presented the background information about prior requests by the Applicants. Mr. Turisk stated staff had received 3 letters in opposition of the request, and staff received one letter in support. He further explained factors in favor and factors against.

Member Brofer asked where the property owner that supported the proposal was located. Mr. Turisk stated the person who wrote the letter of support lived outside the notification area.

Marion Beal, Applicant, stated it is very difficult to get small businesses approved due to untrue information that has been circulated. She stated she has made a big compromise in scaling down the business.

Commissioner Silva entered the meeting at 4:25 p.m.

Mrs. Beal explained to the Commission how much money she pays into the local economy.

Member Brofer asked where she had been selling dogs prior to this property. Mrs. Beal stated she had been located in Cochise.

Chair Basnar opened the meeting to the public.

Karen Pike stated she lives outside the 1500' notification area. She stated she has some concerns about all the dog waste; she is concerned about protecting the San Pedro and the runoff from the property.

Laurie Fivecoat, Cochise County Animal Control Officer, stated Mrs. Beal moved from the property in Cochise in 2005 and Animal Control was called because there were animals that had been abandoned on the property. She then moved to the City of Benson and the Animal Control officer inspected her property and she was in violation of the City ordinances. She then stated in 2008 she had inspected the current property and charged her with numerous counts of rabies vaccination violations, and lack of dog licenses.

Chair Basnar closed the meeting to the public, and offered the Applicant time for a rebuttal.

Mrs. Beal stated Ms. Fivecoat has not been to the property since 2008. She stated the other charges were not true.

Chair Basnar asked for the Director's recommendation.

Mr. Turisk stated that staff recommends denial of the Special Use.

Motion: Motion made to approve SU-09-03 with the factors in favor the findings in fact,

Action: Approve, **Moved by** Jim Martzke, **Seconded by** John Wendle.

Mr. Ambrose, County Attorney, asked the Commission not to consider anything regarding the court proceedings raised during public testimony, as there is no evidence here in the case.

Commissioner Wendle stated based on the testimony by Animal Control and the opposition he can not support the proposal.

Commissioner Martzke stated he lives in the area and has heard from many people that live out there and the noise does disrupt the neighbors. He further stated he could not support the proposal.

Commissioner Brofer stated he is concerned about the animals, and had intended to support, but after the testimony doesn't feel the animals should be located there.

Commissioner Brauchla stated he feels there are too many dogs and feels the noise impacts are very severe, and won't support it.

Commissioner Bemis stated he can not support it since it doesn't fall into the Tres Alamos Plan.

Commissioner Silva agreed with the other Commissioners, but is concerned about what will happen to the dogs.

Chair Basnar stated he could not support the proposal either.

Vote: Motion failed (**summary:** Yes = 0, No = 7, Abstain = 0).

No: Jim Martzke, Duane Brofer, Lee Basnar, John Wendle, Cruz Silva, Ron Bemis, Gary Brauchla.

Item 4 – Election of Officers

Motion: Nominate Lee Basnar as Chair, Moved by John Wendle, Seconded by Duane Brofer.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 7).

Yes: Jim Martzke, Duane Brofer, Lee Basnar, John Wendle, Cruz Silva, Ron Bemis, Gary Brauchla.

Motion: Nominate Jim Martzke as Vice-Chair, Moved by Cruz Silva, None seconded.

Vote: Motion passed (summary: Yes = 6, No = 0, Abstain = 1).

Yes: Duane Brofer, Lee Basnar, John Wendle, Cruz Silva, Ron Bemis, Gary Brauchla.
Abstain: Jim Martzke.

PLANNING DIRECTOR'S REPORT

1. Board of Supervisors Actions included a work session on the roles of Planning and Zoning.
Board approved the Habitat for Humanity rezoning, and the Board approved the Owner Opt out.
2. Next Month's Dockets include five dockets and the study session.

CALL TO COMMISSIONERS

Commissioner Basnar stated when the Commission receives the e-mail about a quorum, he stated when they reply to staff only reply to staff.

ADJOURNMENT

Motion: To Adjourn at 5:23 p.m., Action: Adjourn, Moved by Jim Martzke, Seconded by Duane Brofer.

Vote: Motion carried by unanimous roll call vote (summary: Yes = 7).

Yes: Jim Martzke, Duane Brofer, Lee Basnar, John Wendle, Cruz Silva, Ron Bemis, Gary Brauchla.

Planning & Zoning Commission Meeting Sign in Sheet

DATE March 10, 2010

PLEASE PRINT

NAME	ADDRESS	PHONE #	ITEM #
1. Karen Pike	P.O. Box 924 Benson	586-3922	#2
2. Laurie Fivercoat	136 W 5th st Ste. 2 Benson	586-8156	#2
3. Jack Cooch	P.O. Box 4305 Bisbee 85603	_____	_____
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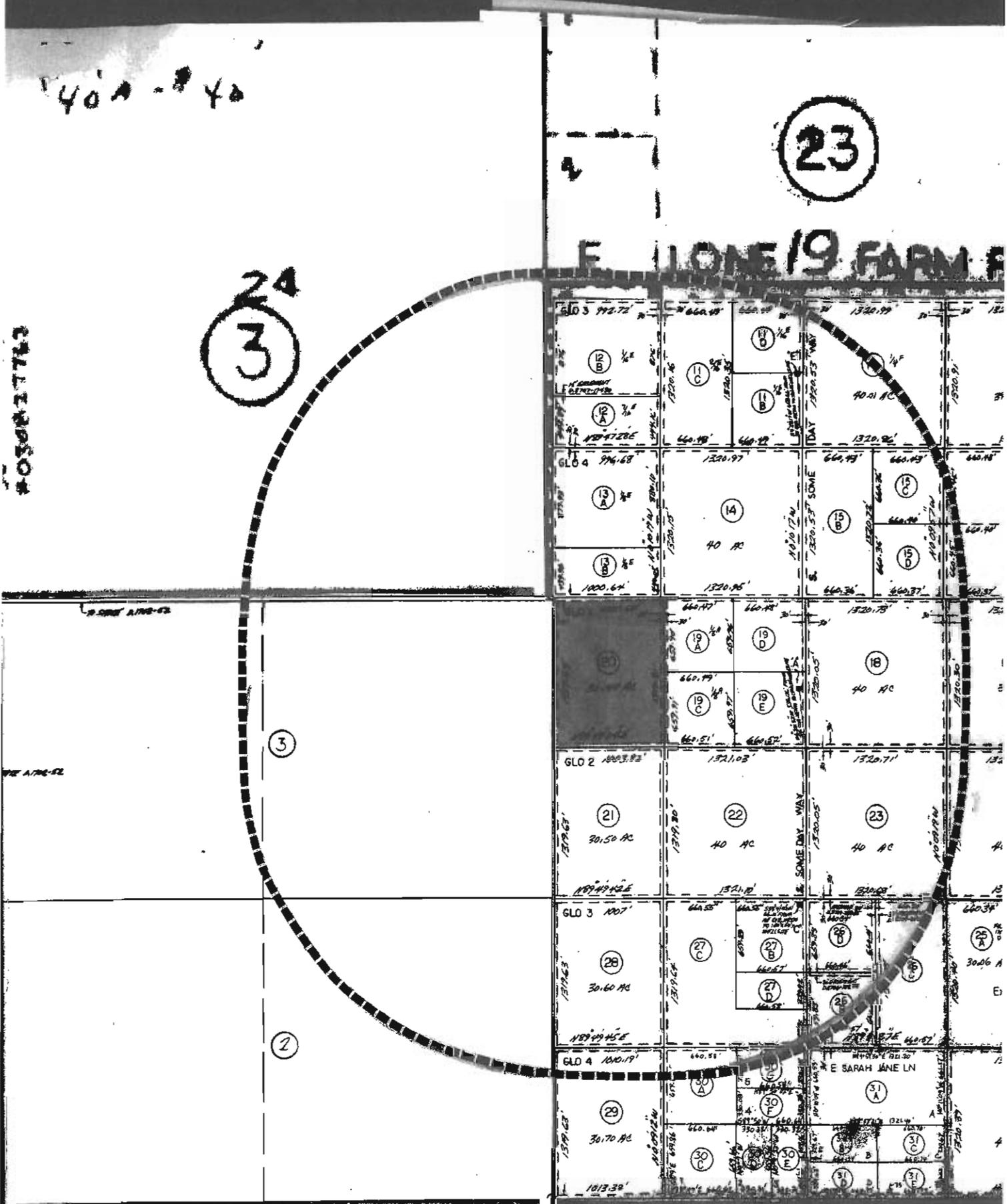
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MAP



COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240
Fax 432-9278

MEMORANDUM

TO: Cochise County Planning and Zoning Commission

FROM: Keith Dennis, Planner II
For: Benny J. Young, P.E., Planning Director

SUBJECT: Docket SU-10-05 (Schmidt)

DATE: April 6, 2010, for the April 14, 2010 Meeting

APPLICATION FOR A SPECIAL USE

Docket SU-10-05 (Schmidt): The Applicant seeks a Special Use Permit in order to legitimize and expand an existing, agriculture-related metal fabrication and welding operation, pursuant to Section 607.16 of the Cochise County Zoning Regulations. The business currently operates in an existing 1,297 square foot Quonset building with accessory outdoor storage. The Applicant proposes to expand the business with a 3,200 square foot metal building, a 320 square foot office building, a 405 square foot storage container and associated concrete aprons on the buildings' exteriors.

The subject parcel (305-73-020) is located at 3911 E. Shelton Road in Kansas Settlement, AZ. The Applicant is Daniel Doberstein of DRD Fabricating, acting on behalf of property owner Jonathan Schmidt.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Size: 30.04 Acres

Zoning: RU-4 (Rural – 1 dwelling per 4 acres)

Growth Category: D (Rural)

Plan Designation: Rural

Area Plan: None Applicable

Existing Uses: 1,120 square foot single family residence, an 820 square foot "bunk house," and 1,297 square foot Quonset shop

Proposed Uses: Legitimize and expand existing business as described above.

Surrounding Zoning

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Undeveloped Land
South	RU-4	Undeveloped Land
East	RU-4	Undeveloped Land, Rural Residential
West	RU-4	Agricultural

II. PARCEL HISTORY

There are no violations, code enforcement actions or permits currently associated with the property. Assessor's records show a 1,120 square foot house built in 1953, an 820 square foot "bunk house" built in 1954, and a 1,297 square foot Quonset building constructed in 1980.

III. PROJECT DESCRIPTION

The Applicant, Daniel Doberstein of DRD Fabricating, operates a small-scale metal fabrication and welding business on the subject property. The business' clientele includes local farmers and ranchers who require fabricated metal replacement blades and other parts for farm equipment. The business also performs some work for the Border Patrol, welding fuel and water tanks onto one-axle trailers.

The business has been operating without a permit since late 2006. More recently, the property owner inquired about commercial permits needed to expand the business, and was informed that a Special Use Permit would be required for the existing operation and prior to any new construction. The owner's tenant and business owner, Daniel Doberstein, now seeks a Special Use Permit in order to legitimize and expand the existing business.

IV. ANALYSIS OF IMPACTS - COMPLIANCE WITH SPECIAL USE FACTORS (SECTION 1716.02)

Section 1716.02 of the Zoning Regulations provides a list of ten criteria staff uses to evaluate Special Use applications. These are considered factors in determining whether or not to recommend approval for a Special Use Permit, as well as to determine what conditions and/or modifications may be needed. Nine of the ten criteria apply to this request. The project complies with six factors as submitted; with the recommended Conditions of Approval, all of which are standard SUP conditions, the proposal would comply with each of the nine applicable factors.



Eastward view of the DRD Fabricating, the existing business operating out of the Quonset building at center. The 820 square foot guest house on the property is at left.

A. Compliance with Duly Adopted Plans: Complies

As a business primarily supporting the local agricultural economy, the operation might be characterized as an incidental or accessory support to the larger local economy. In this respect, the Special Use would comply with both the Growth Area criteria Category D areas as well as the Rural Comprehensive Plan Designation.

B. Compliance with the Zoning District Purpose Statement: Complies

Section 601.02 of the Zoning Regulations describes the business and its role in the community as one which "serve[s] local needs or provide[s] a service and [is] compatible with rural living."

C. Development Along Major Streets: Complies

The subject property is located at the Southeast corner of Shelton Road, which is a County-owned and maintained road, and Alamo Lane, which is a private road. The business, although addressed from Shelton Road, takes access off Alamo Lane, and no new points of access to either road are proposed. Traffic to and from the site would not directly access Shelton Road but would instead access it by way of Alamo Lane.

D. Traffic Circulation Factors: Complies

Section 102.B.3.a of the Comprehensive Plan discourages non-residential development from directly accessing streets that primarily serve residential areas. Although there are scattered rural homesites in the area, the local transportation network primarily serves the agricultural land use pattern in this neighborhood.

E. Adequate Services and Infrastructure: Complies (Subject to Condition #2)

The property is already served by existing well and septic systems. The two existing homes on the property and the business currently share a septic system but a new dedicated septic system is proposed for the business expansion. SSVEC provides electric power to the site, which is within the service area of the Willcox Rural Fire Department.

The property takes access from Alamo Lane, which is a private Rural Minor Access road that is not maintained by the County. Approximately 300 feet North of the driveway entrance is the intersection of Alamo and Shelton Road, which is County-maintained. Staff recommends, as Condition of Approval #2 that prior to operation, the Applicant shall enter into a private maintenance agreement with the County, to ensure that portion of Alamo Lane between the Applicant's driveway and the Alamo/Shelton intersection is maintained in a safe, passable condition.

F. Significant Site Development Standards: Complies (See Condition #1)

The Applicant can meet all applicable site development standards. There are a small number of minor deficiencies on the site plan which would be remedied prior to permit issuance. Condition #1, which is a standard condition of approval for all Special Uses, would require a revised site plan meeting all applicable site development standards prior to issuance of a permit.



Northwest view of the business as seen from the rear. In the foreground is the site of the proposed expansion.

G. Public Input: Complies

The Applicant completed the required Citizen Review as part of the Special Use Application process, and received one positive response. The County has also completed its required legal noticing and property owner notification. To date, the Department has received no response from neighbors for or against the Special Use.



Looking South along Alamo Lane. The business is at left.

H. Hazardous Materials: Complies (See Condition #3)

The Applicant submitted a Hazardous Materials questionnaire and Material Data Safety Sheets for welding equipment and materiel. The business would use small quantities of these materials in an area in which there is little development and/or potential for off-site impacts in the event of an accident. The County Local Emergency Planning Committee, County Building Code staff and

the Willcox Rural Fire Department had no comment on the case during this phase of the project. However, Condition #3, which is a standard condition requiring adherence to any other applicable codes or conditions, would ensure that building code requirements related to such materials are followed during construction.



Southward view of Border Patrol equipment brought to the business for repair and modification.

I. Off-Site Impacts: Complies

The most likely off-site impacts from the business are noise from the metal fabricating process which, due to the rural character of the neighborhood is not expected to be a disturbance to neighbors. Traffic to and from the site would be minimal and dust and glare are not anticipated to be problematic. The off-site residence nearest the project is 850 feet away.

J. Water Conservation: Not Applicable

Because the portion of the property used by the business is less than one acre in size, the Comprehensive Plan water conservation policies suggested as part of this Special Use factor do not apply, nor do the measures set forth in Section 1820 of the County Zoning Regulations. The nature of the project is such that there is to be minimal water use on the site.

V. PUBLIC COMMENT

The Department mailed notices to neighboring property owners within 1,500 feet. Staff posted the property on March 17, 2010, and published a legal notice in the *San Pedro Valley News-Sun* on March 25, 2010. To date, staff has received no additional input from neighbors regarding the proposal.

VI. SUMMARY AND CONCLUSION

Factors in Favor of Allowing the Special Use

1. The proposal would comply with the applicable Comprehensive Plan Growth Category and Plan Designation policy guidelines, and with the Rural District purpose statements.
2. With the conditions of approval recommended by staff, the project would comply with each of the nine applicable Special Use factors.

Factor Against Approval

1. Although this project is not the result of a violation or construction without permits, the Applicant operates a business without a permit.

VII. RECOMMENDATIONS

Based on the factors in favor of approval, staff recommends **conditional approval** of the Special Use request.

Sample Motion: *Mr. Chair, I move to approve Docket SU-10-05, based on the Factors in Favor of approval as the Findings of Fact, with the conditions of approval recommended in the staff memorandum.*

Recommended Conditions of Approval:

1. Within thirty (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 and obtain a building/use permit for the project within 12 months of approval, including a completed joint permit application. 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 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. Prior to operation, the Applicant shall enter into a private maintenance agreement with the County, to ensure that portion of Alamo Lane between the Applicant's driveway and the Alamo/Shelton intersection is maintained in a safe, passable condition.
3. 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.
4. Any changes to the approved Special Use shall be subject to review by the Planning Department and may require additional modification and approval by the Planning and Zoning Commission.

VIII. ATTACHMENTS

- A. Special Use Application
- B. Location Map
- C. Site Plan
- D. Citizen Review Report



COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Susan Buchan, Director

COCHISE COUNTY PLANNING DEPARTMENT COMMERCIAL USE/BUILDING PERMIT/SPECIAL USE PERMIT QUESTIONNAIRE (TO BE PRINTED IN INK OR TYPED)

TAX PARCEL NUMBER: 30573020

APPLICANT: DANIEL R. DOBERSTEIN

MAILING ADDRESS: 3911 E. SHELTON RD, WILLCOX, AZ 85643

CONTACT TELEPHONE NUMBER: 520-507-2437

PROPERTY OWNER (IF OTHER THAN APPLICANT): JONATHAN SCHMIDT

ADDRESS: P.O. Box 121

NEW PLYMOUTH, ID

DATE SUBMITTED: 2/24/2010

Special Use Permit Public Hearing Fee (if applicable)	\$	<u>300</u>
Building/Use Permit Fee	\$	<u> </u>
Total paid	\$	<u> </u>

CHECK # 2414
LD

PART ONE - REQUIRED SUBMITTALS 2/24/2010

1. Cochise County Joint Application (attached).
2. Questionnaire with all questions completely answered (attached).
3. A minimum of (6) copies of a site plan drawn to scale and completed with all the information requested on the attached Sample Site Plan and list of Non-residential Site Plan Requirements. (Please note that **nine (9) copies will be required for projects occurring inside the Building Code enforcement area. In addition, if the site plan is larger than 11 by 17 inches, please provide one reduced copy.**)
4. Proof of ownership/agent. If the applicant is not the property owner, provide a notarized letter from the property owner stating authorization of the Commercial Building/Use/Special Use Application.
5. Citizen Review Report, if special use.

6. Proof of Valid Commercial Contractor's License. (Note: any building used by the public and/or employees must be built by a Commercial Contractor licensed in the State of Arizona.)
7. Hazardous or Polluting Materials Questionnaire, if applicable.

OTHER ATTACHMENTS THAT MAY BE REQUIRED DEPENDING ON THE SCOPE OF THE PROJECT

1. Construction Plans (possibly stamped by a licensed Engineer or Architect)
2. Off-site Improvement Plans
3. Soils Engineering Report
4. Landscape Plan
5. Hydrology/Hydraulic Report
6. Sierra Vista Sub-Watershed Water Conservation Overlay Zone Permit Checklist
7. Traffic Impact Analysis (TIA): **Where existing demonstrable traffic problems have already been identified such as high number of accidents, substandard road design or surface, or the road is near or over capacity, the applicant may be required to submit additional information on a TIA.**
8. Material Safety Data Sheets
9. Extremely Hazardous Materials Tier Two Reports
10. Detailed Inventory of Hazardous or Polluting Materials along with a Contingency Plan for spills or releases

The Commercial Permit Coordinator/Planner will advise you as soon as possible if and when any of the above attachments are required.

PART TWO - QUESTIONNAIRE

In the following sections, thoroughly describe the proposed use that you are requesting. **Attach separate pages if the lines provided are not adequate for your response.** Answer each question as completely as possible to avoid confusion once the permit is issued.

SECTION A - General Description (Use separate sheets as needed)

1. What is the existing use of the property? RESIDENTIAL

2. What is the proposed use or improvement? metal fabrication per sec. 607.15
Agricultural-related fabricating + repair business
40' x 80' Building

3. Describe all activities that will occur as part of the proposed use. In your estimation, what impacts do you think these activities will have on neighboring properties? welding + machining — NO IMPACTS

4. Describe all intermediate and final products/services that will be produced/offered/sold.

Farm repair tractor disc, wagon
Custom fabricating of parts or frames

5. What materials will be used to construct the building(s)? (Note: if an existing building(s), please list the construction type(s), i.e., factory built building, wood, block, metal)

Pre-engineered metal

6. Will the project be constructed/completed within one year or phased? One Year _____
Phased if phased, describe the phases and depict on the site plan.

40' x 80' Building and office + restroom
50' x 100' Building

7. Provide the following information (when applicable):

A. Days and hours of operation: Days: 6 Hours (from 8 AM to 5 PM)

B. Number of employees: Initially: 1 Future: 3
Number per shift Seasonal changes _____

C. Total average daily traffic generated:

(1) How many vehicles will be entering and leaving the site.

6

(2) Total trucks (e.g., by type, number of wheels, or weight)

1 semi w/ 53' dropdeck, GVWR < 80,000

(3) Estimate which direction(s) and on which road(s) the traffic will travel from the site?

From Kansas Settlement Road, East on Shelton to Alamo,
South to entrance.

(4) If more than one direction, estimate the percentage that travel in each direction

(5) At what time of day, day of week and season (if applicable) is traffic the heaviest

Between 8-12 AM, weekly

D. Circle whether you will be on public water system or private well. If private well, show the location on the site plan.

Estimated total gallons of water used: per day 10 per year 3000

E. Will you use a septic system? Yes X No ___ If yes, is the septic tank system existing? Yes ___ No X
Show the septic tank, leach field and 100% expansion area on the site plan.

F. Does your parcel have permanent legal access*? Yes X No ___
D. If no, what steps are you taking to obtain such access?

*Section 1807.02A of the Cochise County Zoning Regulations stipulates that no building permit for a non-residential use shall be issued unless a site has permanent and direct access to a publicly maintained street or street where a private maintenance agreement is in place. Said access shall be not less than twenty (20) feet wide throughout its entire length and shall adjoin the site for a minimum distance of twenty (20) feet.

Does your parcel have access from a (check one): X private road or easement**
____ County-maintained road
____ State Highway

**If access is from a private road or easement provide documentation of your right to use this road or easement and a private maintenance agreement.

G. For Special Uses only - provide deed restrictions that apply to this parcel if any.
Attached _____ NA X

H. Identify how the following services will be provided:

Service	Utility Company/Service Provider	Provisions to be made
Water	<u>well - on site</u>	
Sewer/ <u>Septic</u>		
Electricity	<u>SSVEC</u>	
Natural Gas	<u>N/A</u>	
Telephone		
Fire Protection	<u>Willcox Rural FD</u>	

SECTION B - Outdoors Activities/Off-site Impacts

1. Describe any activities that will occur outdoors.

Unloading job materials + loading finished jobs

2. Will outdoor storage of equipment, materials or products be needed? Yes No if yes, show the location on the site plan. Describe any measures to be taken to screen this storage from neighboring properties. chain link fence
-
3. Will any noise be produced that can be heard on neighboring properties? Yes No if yes: describe the level and duration of this noise. What measures are you proposing to prevent this noise from being heard on neighboring properties? _____
-
4. Will any vibrations be produced that can be felt on neighboring properties? Yes No if yes; describe the level and duration of vibrations. What measures will be taken to prevent vibrations from impacting neighboring properties? _____
-
5. Will odors be created? Yes No If yes, what measures will be taken to prevent these odors from escaping onto neighboring properties? _____
-
6. Will any activities attract pests, such as flies? Yes No If yes, what measures will be taken to prevent a nuisance on neighboring properties? _____
-
7. Will outdoor lighting be used? Yes No If yes, show the location(s) on the site plan. Indicate how neighboring properties and roadways will be shielded from light spillover. Please provide manufacturer's specifications.
8. Do signs presently exist on the property? Yes No If yes, please indicate type (wall, freestanding, etc.) and square footage for each sign and show location on the site plan.
- A. _____ B. _____ C. _____ D. _____
9. Will any new signs be erected on site? Yes No If yes, show the location(s) on the site plan. Also, draw a sketch of the sign to scale, show the copy that will go on the sign and **FILL OUT A SIGN PERMIT APPLICATION** (attached).

10. Show on-site drainage flow on the site plan. Will drainage patterns on site be changed?

Yes ___ No X

If yes, will storm water be directed into the public right-of-way? Yes ___ No ___

Will washes be improved with culverts, bank protection, crossings or other means?

Yes ___ No X

If yes to any of these questions, describe and/or show on the site plan.

11. What surface will be used for driveways, parking and loading areas? (i.e., none, crushed aggregate, chipseal, asphalt, other)

crushed aggregate

12. Show dimensions of parking and loading areas, width of driveway and exact location of these areas on the site plan. (See site plan requirements checklist.)

13. Will you be performing any off-site construction (e.g., access aprons, driveways, and culverts)?

Yes ___ No X If yes, show details on the site plan. **Note: The County may require off-site improvements reasonably related to the impacts of the use such as road or drainage improvements.**

SECTION C - Water Conservation and Land Clearing

1. If the developed portion of the site is one acre or larger, specific measures to conserve water on-site must be addressed. Specifically, design features that will be incorporated into the development to reduce water use, provide for detention and conserve and enhance natural recharge areas must be described. The Planning Department has prepared a *Water Wise Development Guide* to assist applicants. This guide is available upon request. If the site one acre or larger, what specific water conservation measures are proposed? Describe here or show on the site plan submitted with this application.

< 1 Acre

2. How many acres will be cleared? < 1 Acre

If more than one acre is to be cleared describe the proposed dust and erosion control measures to be used (Show on site plan if appropriate.)

SECTION D - Hazardous or Polluting Materials

Does the proposed use involve hazardous materials? These can include paint, solvents, chemicals and chemicals wastes, oil, pesticides, herbicides, fertilizers, radioactive materials, or biological agents. Engine repair, dry cleaning, manufacturing and all uses that commonly use such substances in the County's experience require completion of the attachment.

No _____ Yes X If yes, complete the attached Hazardous Materials Attachment. Engine repair, manufacturing and all uses that commonly use such substances in the County's experience also require completion of the attachment.

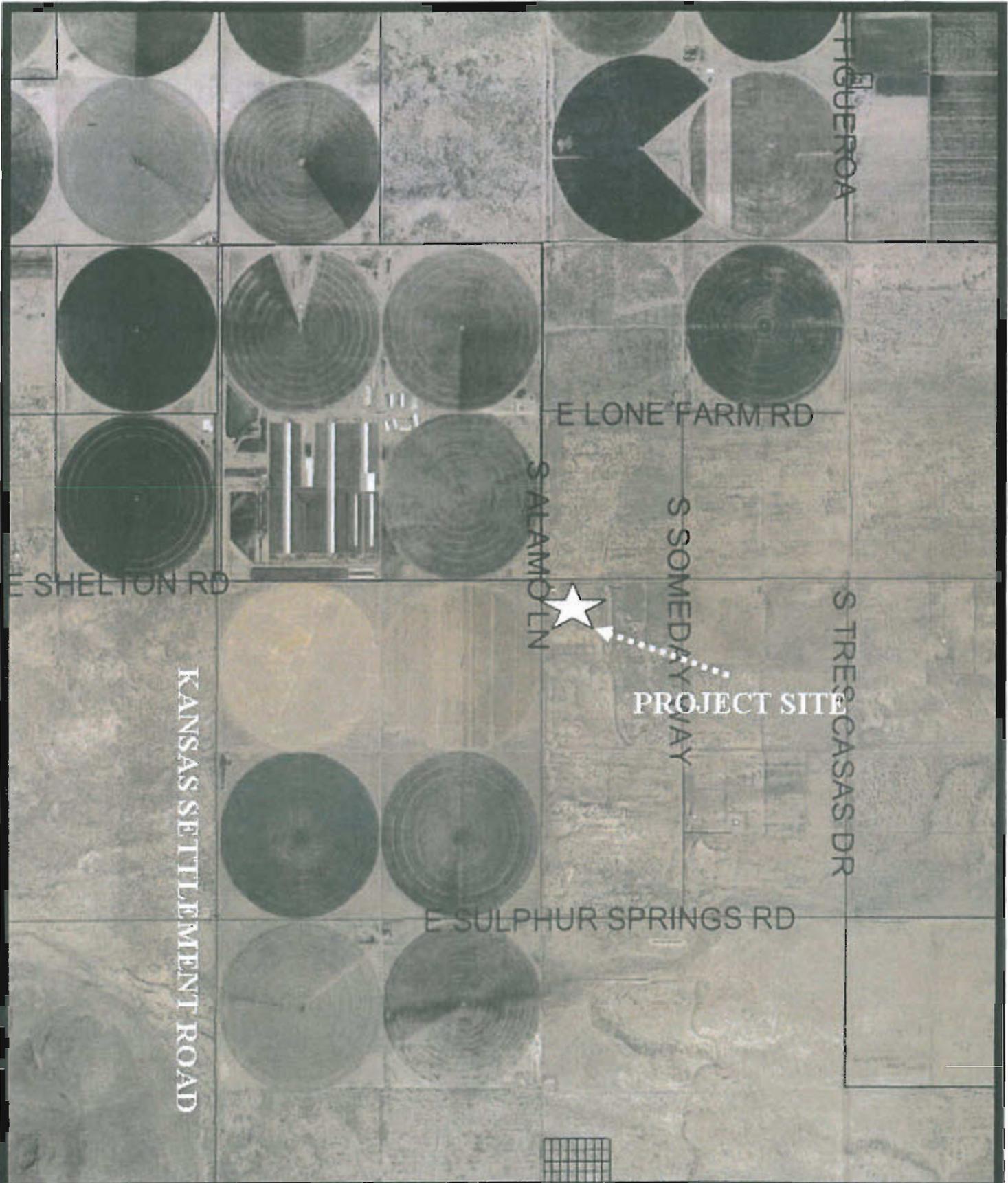
Applications that involve hazardous or polluting materials may take a longer than normal processing time due to the need for additional research concerning the materials' impacts. The Arizona Department of Environmental Quality (ADEQ) Compliance Assistance Program can address questions about Hazardous Materials (1-800-234-5677, ext. 4333.)

SECTION E - Applicant's Statement

I hereby certify that I am the owner or duly authorized owner's agent and all information in this questionnaire, in the Joint Permit Application and on the site plan is accurate. I understand that if any information is false, it may be grounds for revocation of the Commercial Use/ Building/ Special Use Permit.

Applicant's Signature 

Date signed 2-24-2010



SU-10-05 (Schmidt)
Location Map

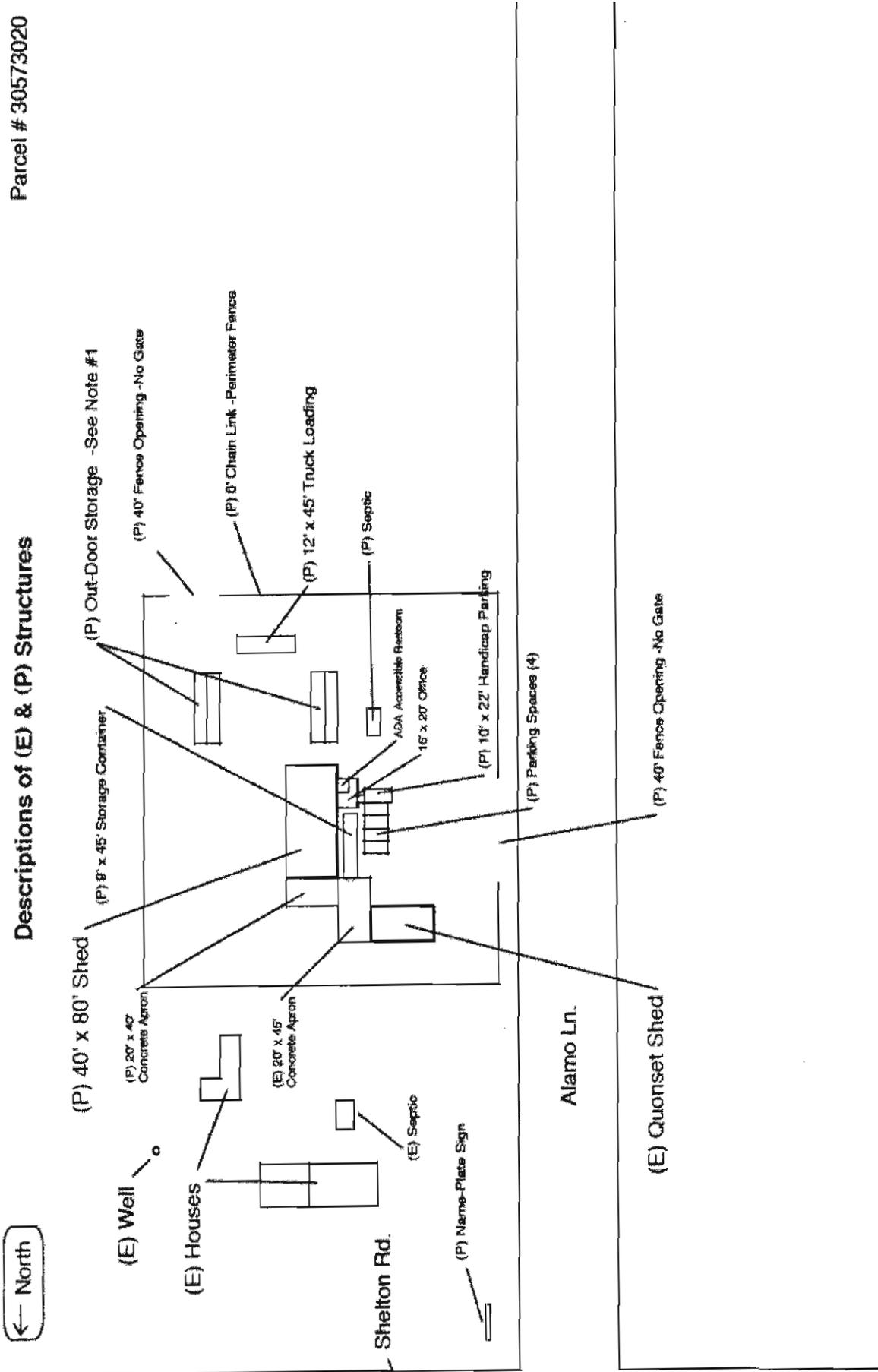
This map is a product of the Cochise County GIS

15  13



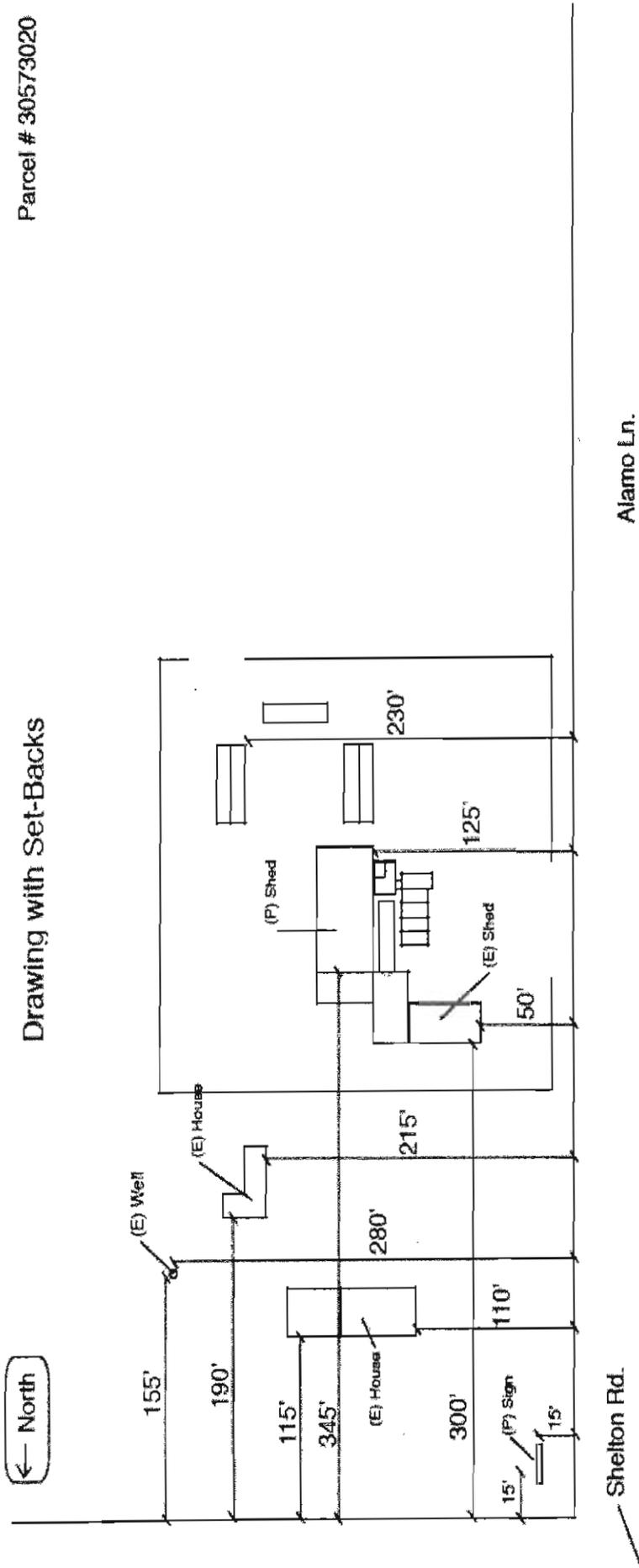
© 2011

Descriptions of (E) & (P) Structures



Note # 1: Outdoor Storage will be NEW Plastic Pipe which is neatly bundled and stacked in 2 separt piles. I would like to request that screening is not required.

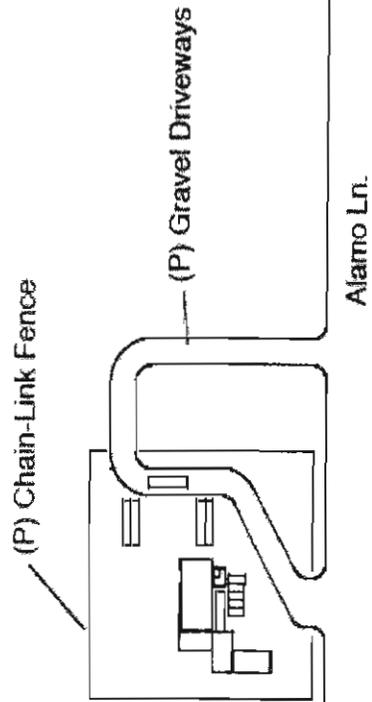
Drawing with Set-Backs



Parcel # 30573020

General Lay-out

< 30.04 Acres >



Shelton Rd.

Alamo Ln.

This is to inform you of my intentions to apply for a Special Use Permit.

Project Location:

SE Corner of Alamo Lane and Shelton Road

Project Description:

I am leasing the property from Jonathan Schmidt and am planning to expand my agriculture-related repair/custom fabricating business and build an additional 40' x 80' shop next to the existing quonset shed.

Access from Kansas Settlement Road will be via Shelton Road, which is county maintained, then south on Alamo Lane, to the business entrance.

Business hours will be 8AM to 5PM Monday through Saturday.

Please see attached drawing to see additional information.

Submit any written comments to:

**Daniel Doberstein
D.R.D. Fabricating
3911 E. Shelton Rd.
Willcox, AZ 85643**

Email: drdfab@gmail.com

Please call me with any questions or comments:

Phone: (520) 507-2437

19 D

Citizen Review Report

Phone Conversation Notes:

Name: Joanna Swanson

Date of call: 02-23-2010

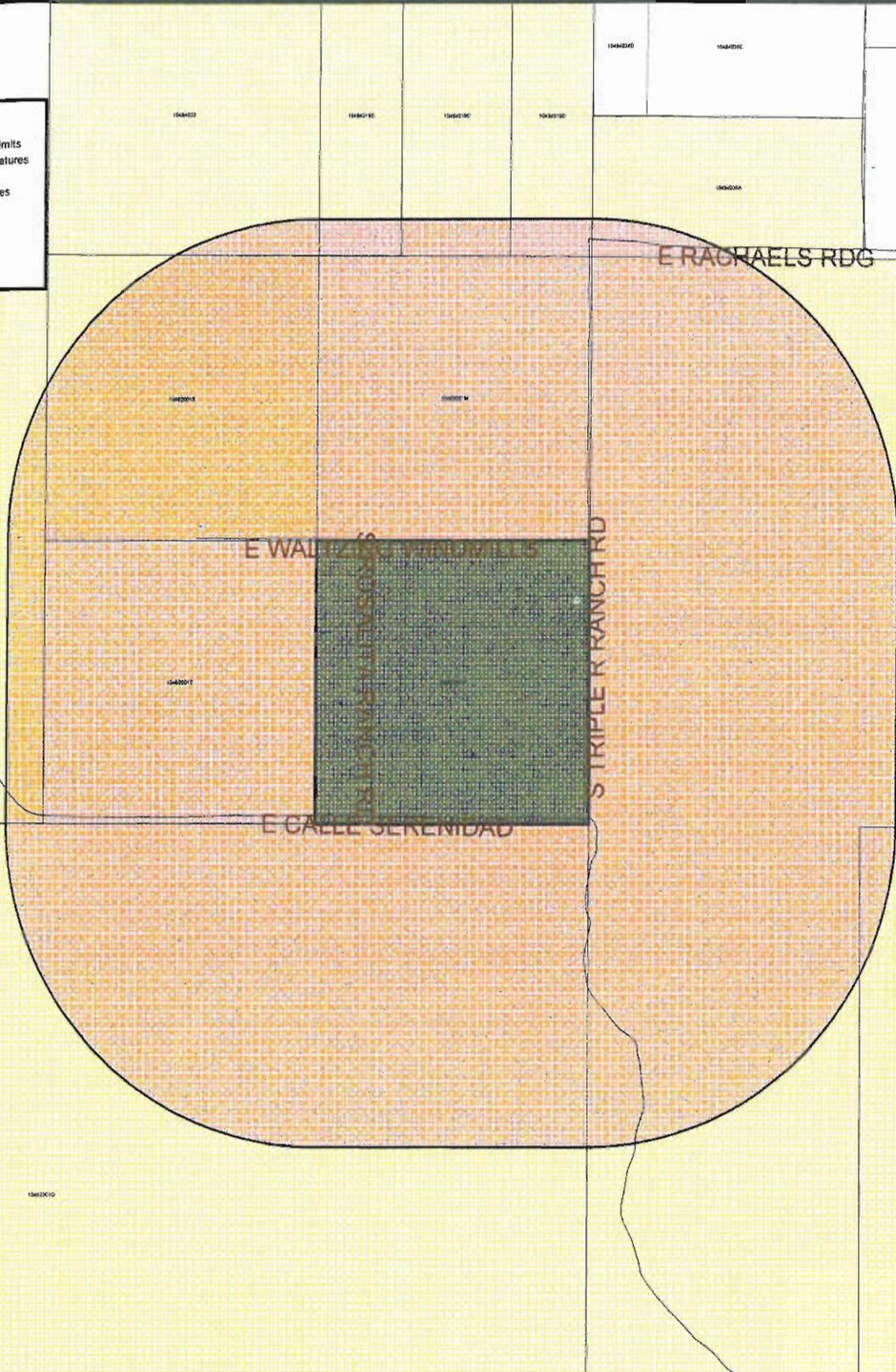
Time of call: 4:54 pm

Duration of call: 10 min. 28 sec.

Ms. Swanson called and said that she had received my notice in the mail, which caused her to think about her property in Willcox, AZ. She said that it had been several years since she had been out to her property. I then explained briefly the proposed project and my intentions of business. She was positively interested in my business and how things were going here in the area. I received no negative impressions regarding the proposed project. We then chatted about the location of her property (which she did not even remember where it was located).

Legend

- Incorporated Limits
- Highlighted Features
- Buffer
- Current Features
- Roads
- Driveway
- Parcels
- Milepost
- Address



SU-10-07
Mutchler
104-62-001P
1500' Buffer

This map is a product of the
Cochise County GIS





COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240
Fax 432-9278

MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Keith Dennis, Planner II
 For: Benny Young, P.E., Planning Director
SUBJECT: Docket SU-10-07 (Mutchler)
DATE: April 6, 2010, for the April 14, 2010 Meeting

APPLICATION FOR A SPECIAL USE

Docket SU-10-07 (Mutchler): The Applicant seeks a Special Use Permit in order to establish and operate a goat cheese making operation with up to 30 goats in milk production on the 40-acre parcel, and to supplement on-site power needs with two additional 55-foot tall wind turbines (one currently exists on the property and serves the existing single family residence). The applicable Sections of the Zoning Regulations are 607.37 (Agricultural Processing) and 1822.02.B (which requires Special Use Permit for more than two wind turbines on any parcel).

The subject parcel (104-62-001P) is located at 11432 S. Triple R Ranch Road in Palominas, AZ. The Applicant is J. C. Mutchler.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Size: 40.14 Acres
Zoning: RU-4 (Rural – 1 dwelling per 4 acres)
Growth Category: D
Plan Designation: Rural-Density Residential
Area Plan: Southern San Pedro Valley Area Plan
Existing Uses: Single-family residence and accessory wind turbine
Proposed Uses: Goat Cheese making operation as described above, with two additional accessory wind turbines (3 total), which are proposed as 55 feet tall.

Surrounding Zoning

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Rural Residential
South	RU-4	Cattle Ranch
East	RU-4	Cattle Ranch
West	RU-4	Undeveloped Land

II. PARCEL HISTORY

1997 – Permit issued for 2,400 square foot single family residence, a carport, accessory shop and two septic fields; this permit was later changed to include only a single family residence and one septic system.

There are no other permits nor code violations associated with the property.

III. PROJECT DESCRIPTION

The Applicants, J.C. Mutchler and Lissa Howe currently maintain a small herd of goats at their Vail residence. They have been experimenting with the creation of goat cheese for several years and now seek to establish a cheesemaking operation. They would relocate their goats to the subject property; around 50 goats in the herd, with a maximum of 30 in production at any given time. To this end, the Applicants have been working with industry experts to create a certifiable goat dairy operation. For example, the Citizen Review report partially documents the Applicants' consultation with the State Dairy Inspector.

When operational, the Applicants claim that a week's worth of production would result in an amount of cheese that would fit into the trunk of an ordinary passenger car. They would then distribute the cheese to local farmers' markets, restaurants and food stores. The Applicants have no intention of opening the project site to the general public, nor do they intend to install signage on the property. It is anticipated that the operation will largely be indistinguishable from other rural residential or agricultural operations characteristic of the area.

There is currently a wind turbine on the property, and the Applicants wish to place two more turbines. The existing turbine is approximately 30 feet high, but the proposed units would be 55 feet tall. The installation of more than two wind turbines on any parcel requires a Special Use permit.

IV. ANALYSIS OF IMPACTS - COMPLIANCE WITH SPECIAL USE FACTORS (SECTION 1716.02)

Section 1716.02 of the Zoning Regulations provides a list of ten criteria staff uses to evaluate Special Use applications. These are considered factors in determining whether or not to recommend approval for a Special Use Permit, as well as to determine what conditions and/or modifications may be needed. Seven of the ten criteria apply to this request; The project complies with six factors as submitted; with the recommended conditions (1) and requested modifications, the proposal would comply with each of the seven applicable factors.



Southward view of the existing residence on the property.

A. Compliance with Duly Adopted Plans: Complies (Subject to Condition #2)

The project would comply with the policies of the Southern San Pedro Valley Area Plan, in that it would be a use compatible with the rural agricultural character of the area, and would have no discernable off-site impacts. Condition #2 would require the Applicant to demonstrate compliance with the design guidelines of the Southern San Pedro Valley Area Plan, prior to issuance of a permit.

B. Compliance with the Zoning District Purpose Statement: Complies

As a project involving agricultural resource production, the project would comply with a number of the purpose statements for RU Zoning Districts as listed in Article 6 of the Zoning Regulations, such as:

601.01 To preserve the character of areas designated as "Rural" in the Cochise County Comprehensive Plan;

601.03 To preserve the agricultural character of those portions of the county capable of resource production; and

601.04 To provide space for people, minimize traffic congestion, and preserve the existing rural environment of unincorporated areas of the county situated outside of existing communities.

C. Development Along Major Streets: Not Applicable**D. Traffic Circulation Factors: Complies**

Section 102.B.3.a of the Comprehensive Plan discourages non-residential development from directly accessing streets that primarily serve residential areas. The nature of development in the area would be characterized as a remote, rural area dominated by ranch lands with scattered homesites. The Applicant has stated that sales and deliveries of the product are not to take place at the property. The traffic to and from the site is likely to be similar to other rural residential homesites.

E. Adequate Services and Infrastructure: Complies (Subject to Condition #4)

The existing residence on site is served by an on-site well and septic system. APS provides electric power, which is supplemented on the property through an existing wind turbine and solar array. As part of the Special Use request, the Applicant also intends to place two 55-foot tall wind turbine installations on the property as well. The Applicant states that wind patterns and frequency in the area favor wind power generation, as it blows on a daily basis for much of the year.

The property takes access from Triple R Ranch Road, and connects to Highway 92 through Rachael Rd and Paloma Trail, a distance of approximately two miles. Highway 92 is the closest maintained road to the subject property. Condition #4 would establish legal access to the property by requiring the Applicant to enter into a private maintenance agreement with the County, to ensure that the path to the nearest maintained road is maintained in a safe, passable condition.

F. Significant Site Development Standards: Complies (Subject to Condition #1 and Requested Modifications)

There are a number of small deficiencies on the site plan which would be remedied prior to permit issuance. Condition #1, which is a standard condition of approval for all Special Uses, would require a revised site plan meeting all applicable site development standards, except as modified, prior to issuance of a permit.

The project site is currently developed as a rural residential home site, with an existing 16 foot driveway and entrance. The Zoning Regulations require 24-foot wide driveway, and for a 2-inch deep gravel surface treatment on all internal driveways, parking areas and loading areas for non-residential uses. The Applicants are requesting modifications to allow the existing entryway and driveway to remain as they exist today, and to allow driveways, parking and loading areas to retain their native dirt surfacing.



Westward view of the future goat pens and dairy site.

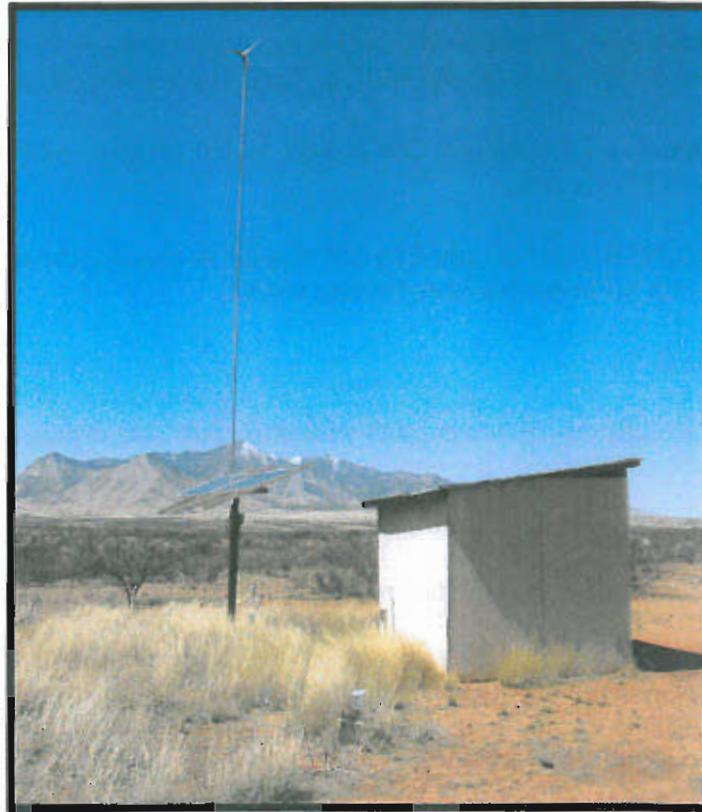
G. Public Input: Complies

The Applicant completed the required Citizen Review as part of the Special Use Application process, and received seven favorable responses. The Applicant also documented a number of phone calls and roadside encounters with area neighbors, which is included in the Citizen Review (Attachment D). The County has also completed its required legal noticing and property owner notification. To date, the Department received one telephone call from a neighbor, Mr. Dash, who expressed concern about possible off-site odor impacts.

H. Hazardous Materials: Not Applicable**I. Off-Site Impacts: Complies**

The project would not generate any discernable off-site impacts. The number of animals, the small quantity of materials being used or produced, the lack of consumer traffic to the site, and the large parcel sizes typical of the neighborhood mean that off-site impacts will be minimal to none. The goats would be contained within a pen and goat manure would not be placed within 50

feet of the property line, per Section 1815 of the County Zoning Regulations. The proposed wind turbines are proposed at a minimum of 240 feet from the nearest property line; these would be approximately 1,800 feet from the nearest home (to the North).



Looking West at the existing wind turbine, solar array and well pump house.

J. Water Conservation: Complies (Subject to Condition #3)

The Application offers an anticipated water usage of 75 gallons per day. The project site is within the boundary of the Sierra Vista Sub-Watershed plan area. Condition #3 would require the Applicant to demonstrate compliance with the policies of the Sierra Vista Sub-Watershed Conservation Policy Plan, prior to issuance of a permit.

V. PUBLIC COMMENT

The Department mailed notices to neighboring property owners within 1,500 feet. Staff posted the property on March 17, 2010, and published a legal notice in the *San Pedro Valley News-Sun* on March 25, 2010. To date, staff has received one protest from a neighbor regarding the proposal.

VI. SUMMARY AND CONCLUSION

Factors in Favor of Allowing the Special Use

1. Depending on the design of the new structures, the proposal would comply with the applicable Comprehensive Plan Growth Category and Southern San Pedro Valley Area Plan policy guidelines for Special Uses, and with the Rural District purpose statements.
2. With the recommended Conditions, the project would comply with each of the seven applicable Special Use factors.
3. The Citizen Review Report submitted by the Applicant indicates broad support from the neighborhood, with seven neighbors expressing support.

Factor Against Approval

1. One neighbor, anticipating off-site impacts related to odors, has expressed opposition to the proposal.

VII. RECOMMENDATIONS

Based on the factors in favor of approval, staff recommends **conditional approval** of the Special Use request.

Sample Motion: *Mr. Chair, I move to approve Docket SU-10-07, based on the Factors in Favor of approval as the Findings of Fact, with the conditions of approval recommended in the staff memorandum.*

Recommended Conditions of Approval:

1. Within thirty (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 and obtain 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, a completed joint permit 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. The Applicant shall demonstrate compliance with the design guidelines of the Southern San Pedro Valley Area Plan, prior to issuance of a permit.
3. The Applicant shall demonstrate compliance with the policies of the Sierra Vista Sub-Watershed Conservation Policy Plan, prior to issuance of a permit.
4. Applicant to enter into a private maintenance agreement with the County, to ensure that the path to the nearest maintained road is maintained in a safe, passable condition.

5. 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.
6. Any changes to the approved Special Use shall be subject to review by the Planning Department and may require additional modification and approval by the Planning and Zoning Commission.

VIII. REQUESTED MODIFICATIONS TO SITE DEVELOPMENT STANDARDS

The Applicant requests the following Modifications to site development standards:

1. To allow the existing 16-foot gate and driveway be allowed to remain as they currently exist (24 feet required per Section 1804.06.F.1);
2. To allow driveways, parking and loading areas to remain in their native dirt surface condition (2-inch deep gravel surface required per Section 1804.07.D); and
3. To waive the requirement of one 12' x 45' loading space (per Section 1804.10).

IX. ATTACHMENTS

- A. Special Use Application
- B. Location Map
- C. Site Plans
- D. Citizen Review Report
- E. Public Comment
- F. Requested Modifications



COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Susan Buchan, Director

COCHISE COUNTY PLANNING DEPARTMENT COMMERCIAL USE/BUILDING PERMIT/SPECIAL USE PERMIT QUESTIONNAIRE (TO BE PRINTED IN INK OR TYPED)

TAX PARCEL NUMBER: 104.62.001.P

APPLICANT: J.C. Mutchler & Lissa Howe

MAILING ADDRESS: 550 N. Brahma Rd. Unit A2 85641
~~85615~~

CONTACT TELEPHONE NUMBER: 520.901.0429

PROPERTY OWNER (IF OTHER THAN APPLICANT): _____

ADDRESS: 11432 Triple R Ranch Rd.
Hereford AZ 85615

DATE SUBMITTED: 2.26.10

Special Use Permit Public Hearing Fee (if applicable)	\$ 300	\$ <u>300</u>
Building/Use Permit Fee	check # 1065	\$ _____
Total paid	ED 2/26/2010	\$ _____

PART ONE - REQUIRED SUBMITTALS

1. Cochise County Joint Application (attached).
2. Questionnaire with all questions completely answered (attached).
3. A minimum of (6) copies of a site plan drawn to scale and completed with all the information requested on the attached Sample Site Plan and list of Non-residential Site Plan Requirements. (Please note that nine (9) copies will be required for projects occurring inside the Building Code enforcement area. In addition, if the site plan is larger than 11 by 17 inches, please provide one reduced copy.)
4. Proof of ownership/agent. If the applicant is not the property owner, provide a notarized letter from the property owner stating authorization of the Commercial Building/Use/Special Use Application.
5. Citizen Review Report, if special use.

6. Proof of Valid Commercial Contractor's License. (Note: any building used by the public and/or employees must be built by a Commercial Contractor licensed in the State of Arizona.)
7. Hazardous or Polluting Materials Questionnaire, if applicable.

OTHER ATTACHMENTS THAT MAY BE REQUIRED DEPENDING ON THE SCOPE OF THE PROJECT

1. Construction Plans (possibly stamped by a licensed Engineer or Architect)
2. Off-site improvement Plans
3. Soils Engineering Report
4. Landscape Plan
5. Hydrology/Hydraulic Report
6. Sierra Vista Sub-Watershed Water Conservation Overlay Zone Permit Checklist
7. Traffic Impact Analysis (TIA): **Where existing demonstrable traffic problems have already been identified such as high number of accidents, substandard road design or surface, or the road is near or over capacity, the applicant may be required to submit additional information on a TIA.**
8. Material Safety Data Sheets
9. Extremely Hazardous Materials Tier Two Reports
10. Detailed Inventory of Hazardous or Polluting Materials along with a Contingency Plan for spills or releases

The Commercial Permit Coordinator/Planner will advise you as soon as possible if and when any of the above attachments are required.

PART TWO - QUESTIONNAIRE

In the following sections, thoroughly describe the proposed use that you are requesting. Attach separate pages if the lines provided are not adequate for your response. Answer each question as completely as possible to avoid confusion once the permit is issued.

SECTION A - General Description (Use separate sheets as needed)

1. What is the existing use of the property? RU-4 Residential
Dwelling + 40 acres
2. What is the proposed use or improvement? One small, 1250sqft
workshop type building for making goat
cheese plus 3 wind generators ^{2 proposed} + 1 existing 55'
height
3. Describe all activities that will occur as part of the proposed use. In your estimation, what impacts do you think these activities will have on neighboring properties? Impact on neighbors? - None, Negligible
Goats will be brought into building, milked.
Milk will be pasturized, ~~and~~ made into
cheese, approx. 20-30 pounds/day, refrigerated
and taken to Tucson for sale

D. Circle whether you will be on public water system or private well. If private well, show the location on the site plan.

Estimated total gallons of water used: per day 75 gal/day per year 27,375 gal/year

E. Will you use a septic system? Yes No If yes, is the septic tank system existing? Yes No
Show the septic tank, leach field and 100% expansion area on the site plan.

F. Does your parcel have permanent legal access*? Yes No
D. If no, what steps are you taking to obtain such access?

*Section 1807.02A of the Cochise County Zoning Regulations stipulates that no building permit for a non-residential use shall be issued unless a site has permanent and direct access to a publicly maintained street or street where a private maintenance agreement is in place. Said access shall be not less than twenty (20) feet wide throughout its entire length and shall adjoin the site for a minimum distance of twenty (20) feet.

Does your parcel have access from a (check one):
 private road or easement** ?
 County-maintained road ?
 State Highway

**If access is from a private road or easement provide documentation of your right to use this road or easement and a private maintenance agreement.

G. For Special Uses only - provide deed restrictions that apply to this parcel if any.
Attached NA

H. Identify how the following services will be provided:

Service	Utility Company/Service Provider	Provisions to be made
Water	Private Well	Water line from existing well
Sewer/Septic	Private Septic System	To be installed per code
Electricity	Solar, Wind, Generator	To be installed
Natural Gas	Propane	To be installed - before water, heat
Telephone	Cell Phone only	Existing service
Fire Protection	Palomares Fire	2.2 miles Fire extinguishers several

SECTION B - Outdoors Activities/Off-site Impacts

1. Describe any activities that will occur outdoors.

Coats will be in pens on property

2. Will outdoor storage of equipment, materials or products be needed? Yes No if yes, show the location on the site plan. Describe any measures to be taken to screen this storage from neighboring properties. Small shed, per code, for storage of grain

Hay storage under tarp

3. Will any noise be produced that can be heard on neighboring properties? Yes No if yes; describe the level and duration of this noise. What measures are you proposing to prevent this noise from being heard on neighboring properties? occasional goat bleating -

occasional, not loud, distance from neighbors, forty acres

4. Will any vibrations be produced that can be felt on neighboring properties? Yes No if yes; describe the level and duration of vibrations. What measures will be taken to prevent vibrations from impacting neighboring properties? _____

5. Will odors be created? Yes No If yes, what measures will be taken to prevent these odors from escaping onto neighboring properties? Some manure & pen odors?

Manure - organically composted, regular cleaning of pens, do not mix manure with Negligible odor
composting of manure kills odors

6. Will any activities attract pests, such as flies? Yes No If yes, what measures will be taken to prevent a nuisance on neighboring properties?

Manure can attract flies, but very minimal w/ goats
Natural fly predators
Arboreal Organics, regular cleaning of pens, composting of manure kills flies & odors

7. Will outdoor lighting be used? Yes No If yes, show the location(s) on the site plan. Indicate how neighboring properties and roadways will be shielded from light spillover. Please provide manufacturer's specifications.

8. Do signs presently exist on the property? Yes No If yes, please indicate type (wall, freestanding, etc.) and square footage for each sign and show location on the site plan.

A. _____ B. _____ C. _____ D. _____

9. Will any new signs be erected on site? Yes No If yes, show the location(s) on the site plan. Also, draw a sketch of the sign to scale, show the copy that will go on the sign and **FILL OUT A SIGN PERMIT APPLICATION** (attached).

~~_____~~

10. Show on-site drainage flow on the site plan. Will drainage patterns on site be changed?

Yes ___ No X

If yes, will storm water be directed into the public right-of-way? Yes ___ No X *N.A.*

Will washes be improved with culverts, bank protection, crossings or other means?

Yes ___ No X *N.A.*

If yes to any of these questions, describe and/or show on the site plan.

11. What surface will be used for driveways, parking and loading areas? (i.e., none, crushed aggregate, chipseal, asphalt, other)

Dirt
None - main way traffic beyond existing residential use

12. Show dimensions of parking and loading areas, width of driveway and exact location of these areas on the site plan. (See site plan requirements checklist.)

13. Will you be performing any off-site construction (e.g., access aprons, driveways, and culverts)?

Yes ___ No X If yes, show details on the site plan. **Note: The County may require off-site improvements reasonably related to the impacts of the use such as road or drainage improvements.**

SECTION C - Water Conservation and Land Clearing

1. If the developed portion of the site is one acre or larger, specific measures to conserve water on-site must be addressed. Specifically, design features that will be incorporated into the development to reduce water use, provide for detention and conserve and enhance natural recharge areas must be described. The Planning Department has prepared a *Water Wise Development Guide* to assist applicants. This guide is available upon request. If the site one acre or larger, what specific water conservation measures are proposed? Describe here or show on the site plan submitted with this application.

? *N.A.*

2. How many acres will be cleared? 1300 square feet?

If more than one acre is to be cleared describe the proposed dust and erosion control measures to be used (Show on site plan if appropriate.) N.A.

SECTION D - Hazardous or Polluting Materials

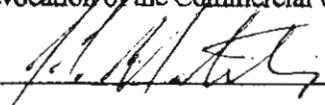
Does the proposed use involve hazardous materials? These can include paint, solvents, chemicals and chemicals wastes, oil, pesticides, herbicides, fertilizers, radioactive materials, or biological agents. Engine repair, dry cleaning, manufacturing and all uses that commonly use such substances in the County's experience require completion of the attachment.

No X Yes _____ If yes, complete the attached Hazardous Materials Attachment. Engine repair, manufacturing and all uses that commonly use such substances in the County's experience also require completion of the attachment.

Applications that involve hazardous or polluting materials may take a longer than normal processing time due to the need for additional research concerning the materials' impacts. The Arizona Department of Environmental Quality (ADEQ) Compliance Assistance Program can address questions about Hazardous Materials (1-800-234-5677, ext. 4333.)

SECTION E - Applicant's Statement

I hereby certify that I am the owner or duly authorized owner's agent and all information in this questionnaire, in the Joint Permit Application and on the site plan is accurate. I understand that if any information is false, it may be grounds for revocation of the Commercial Use/ Building/ Special Use Permit.

Applicant's Signature 

Date signed 2. 20. 10



SU-10-07 (Mutchler)
Location Map

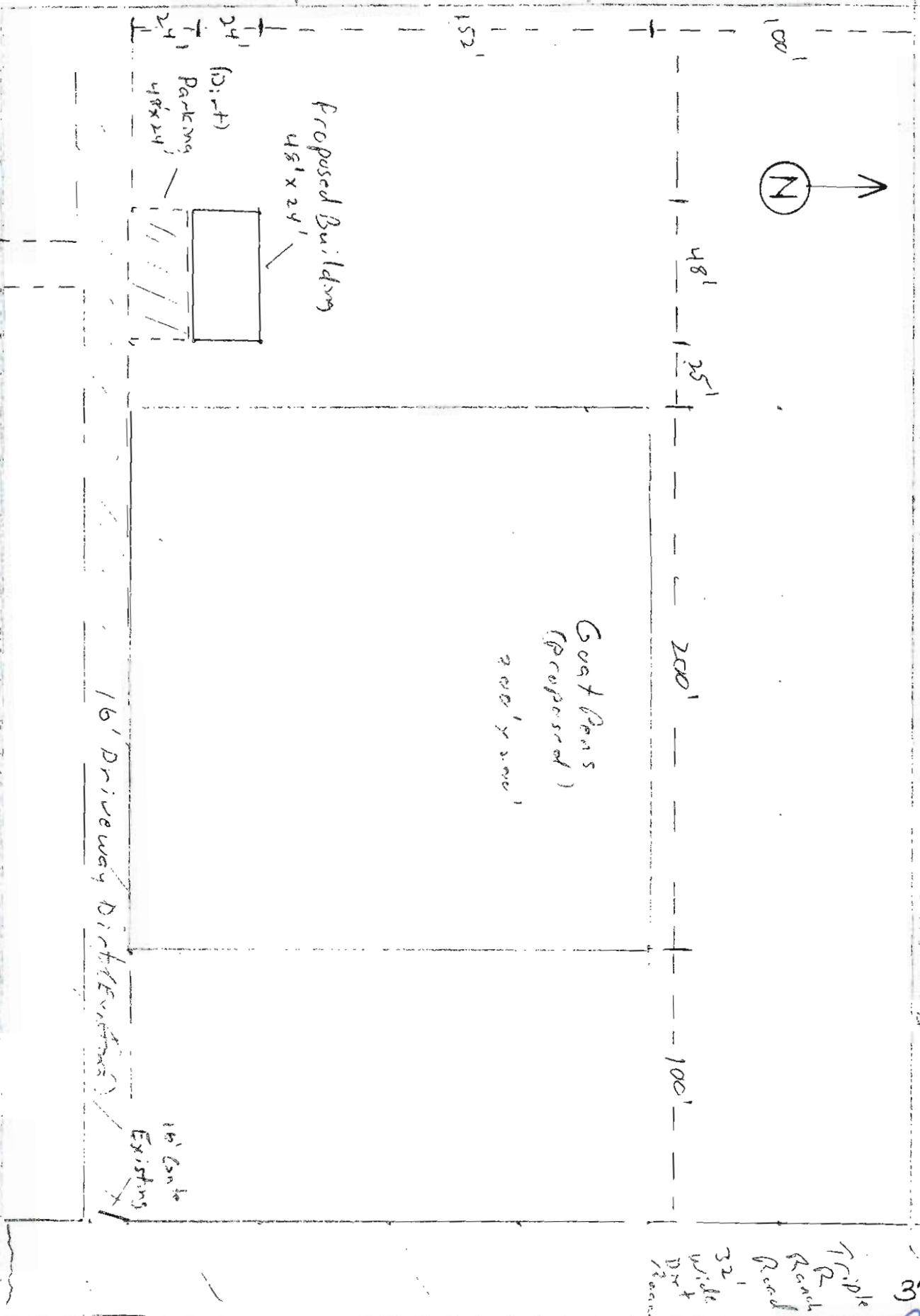
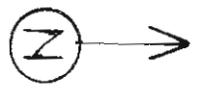
This map is a product of the Cochise County GIS



B



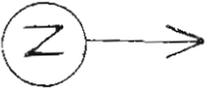
Waiting area with 22' wide street road



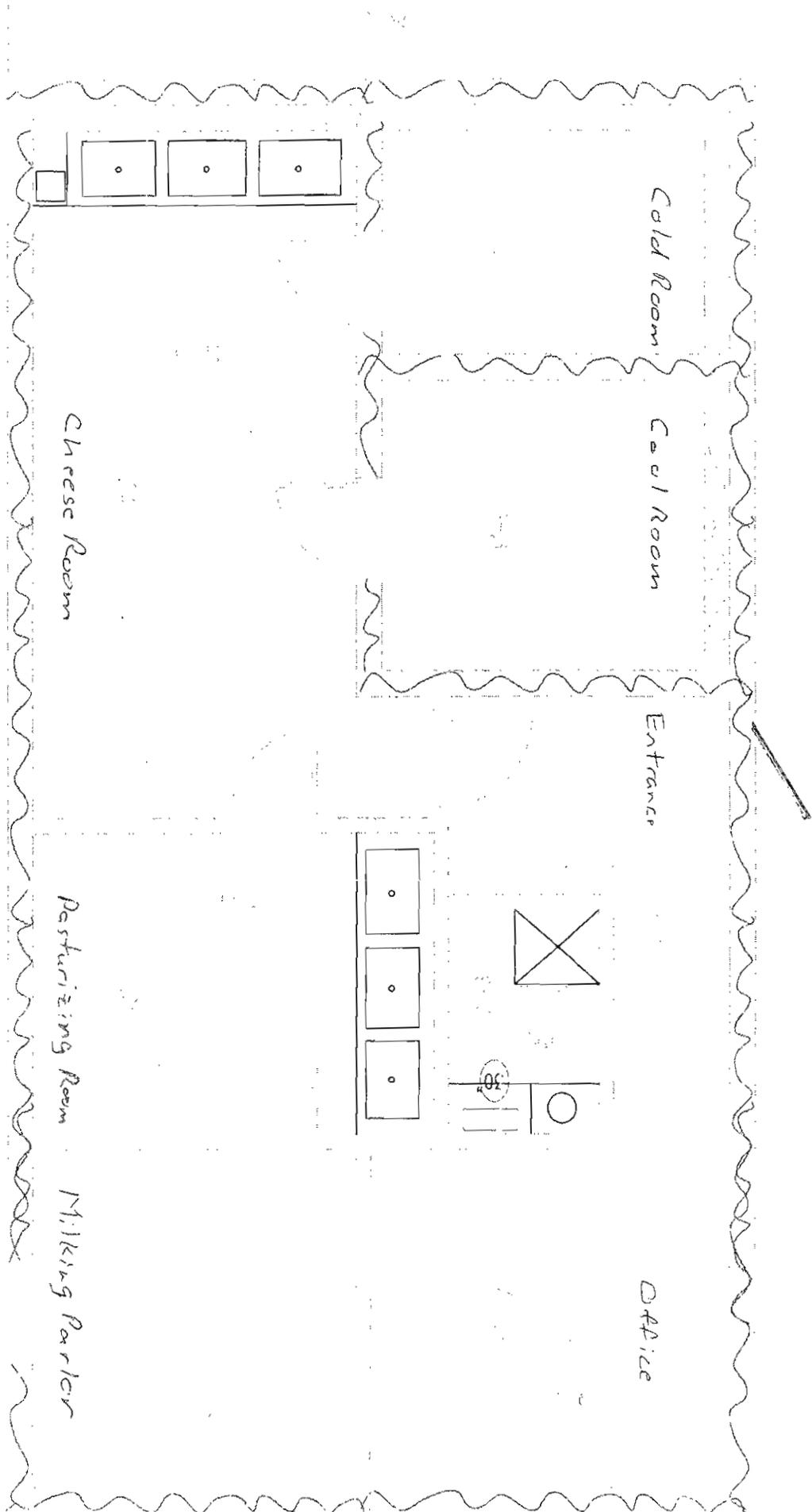
1 inch = 50 feet

1 Trip
 2 Ranch Road
 32' wide Driveway
 4 Ranch

104
 62
 001
 P
 TRIP LE R R A R A R A R R O O A
 1 1 4 3 2



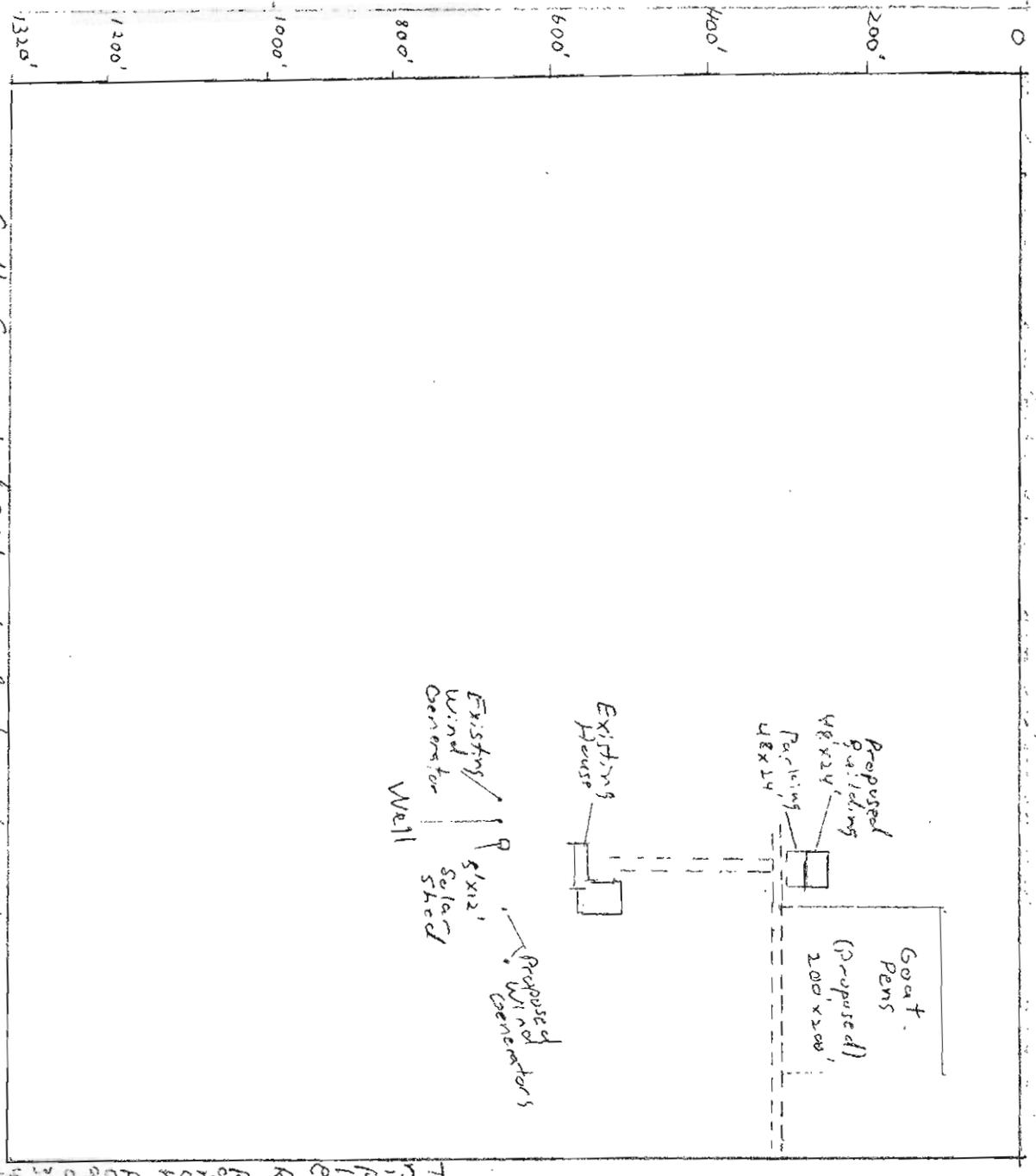
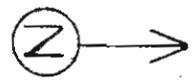
11432 Triple K Ranch Rd
104.62 OOIP



OPTION B 1248 SQ. FT.

104.62.001.P

11432 ✓
TRIPLE
R 5
RANCH
ROAD



0
200'
400'
600'
800'
1000'
1200'
1320'

0
100'
150'
184'
50'
50'
60'
690'

1320'
900'
411' 7"
41' 50" 60'
140'
100'

Calle Serenidad 20' wide dirt road

Triple R Ranch Road

1 inch = 200 feet

February 11, 2010

Hello,

My wife, Lissa Howe, and I are moving from Tucson back to our place at 11432 Triple R Ranch Road in Palominas/Hereford, Cochise County, Arizona.

As part of our move back to Cochise County, Lissa and I would like to make goat cheese on our property at 11432 Triple R Ranch Road, milking about 30 to 40 goats and making cheese in a small building, (approximately 1200 square foot), on our property. The goats produce about 30 gallons of milk a day, which we will turn into about 20 pounds of cheese a day. In order to build the building and make cheese on our private property, Cochise County requires us to obtain a "special use" permit. We also need a "special use" permit for a small electric wind turbine generator whose height including tower may exceed 45 feet. (Initial plan is about 55 feet including tower and generator.)

As part of the special use permit process, *we need your input*. You are invited to submit comments on our request for a "Special Use" Permit for our property at 11432 Triple R Ranch Road in Hereford, Arizona.

This is to be a very small scale operation, using solar and wind electric, all operated in the most sustainable, natural manner possible, which we believe will have minimal impact on our land, and should have no impact on any of our neighbor's property.

Description of our plan:

- We will NEVER grow very big, we make cheese in small batches, much like something you might find in a small village in Europe.
- We will have NO retail customers on-site, all cheese will be sold off-site at Farmer's Markets in Bisbee and Tucson, two or three times a week.
- A week's worth of cheese will fit in two ordinary picnic coolers which can fit into the trunk of an ordinary car.
- Goats will be securely fenced and penned on our private property.
- We will be purchasing hay as locally as possible and feeding it to the goats. 30 goats eat about two small bales of alfalfa a day.
- We will organically compost all goat manure on our property and use it in our garden. (We can also share the compost with you if you are interested.)
- Please see attached map of the property, initial drawings of our site plan, including the wind generator, and proposed drawing of building floor plan.

Please, please, please, we are happy to answer any questions. We welcome your input and would be more than happy to meet with you and/or talk with you about the project.

Please submit any written comments to (Best Mailing Address):

J.C. Mutchler and Lissa Howe
550 N Brahma
Vail, AZ 85641

You can also email us at: jcatbrahma@msn.com

Or, please phone us at: 520.901.0429

We look forward to hearing from you and seeing more of you in Cochise County.

Thank you,


J.C. Mutchler and Lissa Howe

Date:

To the Cochise County Planning and Zoning Office and County Board of Supervisors

As a neighbor within 1500 feet of J.C. Mutchler and Lissa Howe, 11432 Triple R Ranch Road, Hereford, AZ 85615, we would like to express our support of a "special use" permit for the small scale goat cheese dairy project on their property. We also support the special use permit for the wind turbine generator. We have read their proposal for a small dairy building, their proposed plan of operation including the wind generator, and find it reasonable and desirable for our area.

I fully support J.C. & Lissa's Project. It would be a worthwhile addition to the area.

Name:

Jack Radd

Address:

*PO Box 4012
Bisbee AZ 85603*

Phone and/or Email:

Date: 2/17/2010

To the Cochise County Planning and Zoning Office and County Board of Supervisors

As a neighbor within 1500 feet of J.C. Mutchler and Lissa Howe, 11432 Triple R Ranch Road, Hereford, AZ 85615, we could like to express our support of a "special use" permit for the small scale goat cheese dairy project on their property. We also support the special use permit for the wind turbine generator. We have read their proposal for a small dairy building, their proposed plan of operation including the wind generator, and find it reasonable and desirable for our area.

Name: Henry Ramirez

Address: 11390 So. Triple R Ranch Rd

Phone and/or Email:

Date: 18 Feb 2010

To the Cochise County Planning and Zoning Office and County Board of Supervisors

As a neighbor within 1500 feet of J.C. Mutchler and Lissa Howe, 11432 Triple R Ranch Road, Hereford, AZ 85615, we could like to express our support of a "special use" permit for the small scale goat cheese dairy project on their property. We also support the special use permit for the wind turbine generator. We have read their proposal for a small dairy building, their proposed plan of operation including the wind generator, and find it reasonable and desirable for our area.

Name: Michael & Mary Nelson

Address: 419 Black Knob VW
Bowie AZ

Phone and/or Email: 520-432-3295
" 508-6155

February 11, 2010

Hello,

My wife, Lissa Howe, and I are moving from Tucson back to our place at 11432 Triple R Ranch Road in Palominas/Hereford, Cochise County, Arizona.

As part of our move back to Cochise County, Lissa and I would like to make goat cheese on our property at 11432 Triple R Ranch Road, milking about 30 to 40 goats and making cheese in a small building, (approximately 1200 square foot), on our property. The goats produce about 30 gallons of milk a day, which we will turn into about 20 pounds of cheese a day. In order to build the building and make cheese on our private property, Cochise County requires us to obtain a "special use" permit. We also need a "special use" permit for a small electric wind turbine generator whose height including tower may exceed 45 feet. (Initial plan is about 55 feet including tower and generator.)

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- Please see attached map of the property, initial drawings of our site plan, including the wind generator, and proposed drawing of building floor plan.

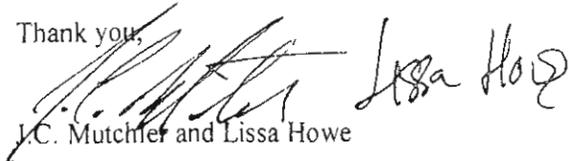
Please, please, please, we are happy to answer any questions. We welcome your input and would be more than happy to meet with you and/or talk with you about the project. Feb 15, 2010

Please submit any written comments to (Best Mailing Address): *Dear Mr. Mutchler & Lissa Howe:*

J.C. Mutchler and Lissa Howe
550 N Brahma
Vail, AZ 85641
I own 40 acres at 10771 E. WATKIN Windmill, PALOMINOS, AZ 85615. As long as you do not exceed 40 goats, I have no problem

You can also email us at: jcatbrahma@msn.com
Or, please phone us at: 520.901.0429
We look forward to hearing from you and seeing more of you in Cochise County.
The wind generator can does create noise but as long as you keep it 300ft from my property line, I have no problem.

Thank you,


J.C. Mutchler and Lissa Howe

I wish you success.
Michael J. Green
6719 E. MALCOMB DR.
P.V., AZ 85253
480-703-7267

Date: 2-15-2010

To the Cochise County Planning and Zoning Office and County Board of Supervisors

As a neighbor within 1500 feet of J.C. Mutchler and Lissa Howe, 11432 Triple R Ranch Road, Hereford, AZ 85615, we could like to express our support of a "special use" permit for the small scale goat cheese dairy project on their property. We also support the special use permit for the wind turbine generator. We have read their proposal for a small dairy building, their proposed plan of operation including the wind generator, and find it reasonable and desirable for our area.

See my hand written letter dated Feb 15, 2010 attached.

Name: MICHAEL L. SHOEN

Address: 10771 E. Waltzing Woodmills
PALOMINO, AZ 85615

Phone and/or Email: mikelshoen @ yahoo.com

Date:

To the Cochise County Planning and Zoning Office and County Board of Supervisors

As a neighbor within 1500 feet of J.C. Mutchler and Lissa Howe, 11432 Triple R Ranch Road, Hereford, AZ 85615, we could like to express our support of a "special use" permit for the small scale goat cheese dairy project on their property. We also support the special use permit for the wind turbine generator. We have read their proposal for a small dairy building, their proposed plan of operation including the wind generator, and find it reasonable and desirable for our area.

Name: FRANK & ROZ PETERS PARCEL # 101-12-0864

Address: 1753 E. ASHDE
CHINO VALLEY, AZ 86323

Phone and/or Email: frankroz@kueriver.com

GOOD LUCK - IT SURE BEATS HAVING
ANOTHER JUNK YARD IN THE NEIGHBORHOOD.

~~Frank & Roz Peters~~
Rosalind M. Peters

would like more info on your wind generator

Date: 02/17/10

To the Cochise County Planning and Zoning Office and County Board of Supervisors

As a neighbor within 1500 feet of J.C. Mutchler and Lissa Howe, 11432 Triple R Ranch Road, Hereford, AZ 85615, we could like to express our support of a "special use" permit for the small scale goat cheese dairy project on their property. We also support the special use permit for the wind turbine generator. We have read their proposal for a small dairy building, their proposed plan of operation including the wind generator, and find it reasonable and desirable for our area.

Name: ALAN & ROSALITA McELROY

Address: 10771 E. WALTZING WINDMILLS
HEREFORD AZ (PHYSICAL)
MAIL: P.O. BOX 723
BISBEE AZ 85603

Phone and/or Email:

520 366 0413

SIGNED:  02/17/10
Alan G. McElroy

Rosalita M. McElroy 02/17/10
ROSALITA M. McELROY

Additional Citizen Review Contacts

Date	Person	Address	Nature of Contact
1.7.10	Terry Tully	Arizona State Dept.of Agriculture, Dairy Control	As the State Dairy Inspector, Terry holds responsibility for final approval of the cheese making aspects of our project in order to be licensed cheese makers. After several phone conversations, met with Terry face to face in Phoenix to discuss our plans for making goat cheese. Showed him our initial floor plan, our cheese making process and overall business plan. With several helpful suggestions, Terry was very supportive and told us to move ahead with the project. We have continued our conversations with Terry and he remains very supportive. He has offered to write a letter of support to Cochise County if needed.
2.5.10	Alan McElroy	P.O. Box 723 Bisbee, AZ 85603	Drove to Alan's house to discuss project. Very favorable response. "That's marvelous." "We're glad you are moving back to Cochise County." "How can I get some cheese"?
2.5.10	Bill McNab	11017 Calle Gavilan Palominas, AZ 85615	Ran into Bill on Paloma Trail Road. Discussed project. Very favorable response. "Let me know what I can do to help." "Can we come to your hearing and offer support"? "When can I get some cheese"?

- 2.5.10 Ellen Logue 10455 E. International Rd.
Palominas, AZ 85615 Ran into Ellen on Paloma Trail Road. Discussed project. Very favorable response. "We're thrilled that you are moving back to Cochise County." "That sounds like a great idea."
- 2.5.10 Sandra Jean 10946 E. Javelina Trail
Palominas, AZ 85615 Ran into Sandra Jean on Paloma Trail Road. Discussed project. Very favorable response. "I love goats." "When are you moving back"? "That's great."
- 2.8.10 Bill Odle 10455 E. International Rd.
Palominas, AZ 85615 E-mail from Bill (attached). Bill had talked to the Escamillas about the project. Bill said they were very favorable.
- 2.16.10 John Ladd San Jose Ranch
P.O. Box 4012
Bisbee, AZ 85603 Called John on phone to discuss project. Very favorable response. "Me and Dad are in favor." "Anything we can do to help."
- 2.25.10 Bill Odle 10455 E. International Rd.
Palominas, AZ 85615 Ran into Bill on Triple R Ranch Road. Discussed project. Very favorable response. "We're just tickled." "This is the sort of thing people should be doing out here." Bill had also talked to John Ladd, and relayed to me John and his dad Jack's very favorable endorsement of project.

----- Forwarded message -----

From: **Ellen Logue** <logodle@hotmail.com>

Date: Mon, Feb 8, 2010 at 12:24 PM

Subject:

To: JC Mutchler <mutchler@email.arizona.edu>

Goat Persons(Lissa y JC):

Missed seeing you the other day-and I are pleased to hear of yer plan to move back to the area.

Yesterday I was on the road(by Smiths) talking to Jesse and Anna Escamilla (they have 12 acres north of Ramirez) when Alan McElroy drove up and mentioned your plans-I believe all look favorably on yer idea.

Give a call or e stuff if you need anything-I'm still ignorant on how the 20th Century technology works, but Ellen can decipher it.

Bill y Ellen

SPECIAL USE: Docket SU-10-07 (Mutchler)

YES, I SUPPORT THIS REQUEST

Please state your reasons: I have read this
proposal and feel that this
goat cheese operations would not
cause

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: _____

(Attach additional sheets, if necessary)

PRINT NAME(S): Henry Ramirez

SIGNATURE(S): Henry Ramirez

YOUR TAX PARCEL NUMBER: 02 104-62-001M (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 11390 So. Triple R Ranch Road

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on April 6, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline; however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Keith Dennis
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603
Email: kdennis@cochise.az.gov
Fax: (520) 432-9278

COCHISE COUNTY
PLANNING DEPARTMENT

E 51

To: Keith Dennis
Cochise County Planning and Zoning

From: J.C. Mutchler

Re: Special Use Permit
Parcel 104-62-001P
11432 S Triple R Ranch Road
Hereford, AZ 85615

Date: April 2, 2010

Dear Mr. Dennis,

Following up on our very helpful conversations, we would like to ask for the following modifications, waivers or exceptions, whatever the appropriate language is, for several items related to our Special Use Permit for 11432 S Triple R Ranch Road.

Gravel road surfaces. We would like to ask for an exception/modification/waiver to maintain our driveway, parking and loading surfaces as dirt surfaced rather than gravel surfaced. Our proposed total weekly production of product onsite will fit into a couple of picnic coolers. This is *not* the sort of facility that will see large semi-tractor trailers coming and going, nor will there be customers or daily traffic coming and going from the site. Most likely, we ourselves will only be coming and going from the site a few times a week and only then in a car or pick-up truck. The use of the existing dirt surfaces will allow us to far more easily self-maintain our driveway, parking area and loading area, whereas gravel will involve substantial ongoing expenses and complication in maintenance of surfaces. We also feel a dirt road surface has far less environmental impact for our land, is more in keeping with the character of the area, and is certainly far less expensive.

Parking area. We are also asking for an exception/modification/waiver regarding precise parking space size and parking space gravel surface requirements. Again, see above, this is not a typical commercial establishment with numerous customers, deliveries, employees, etc. We do not anticipate having employees in our first year or two and even at some future date, never more than one or two part-time employees, and no onsite customer sales and minimal traffic and/or visitors. Beyond our own personal vehicles, we anticipate very little onsite vehicle traffic. We plan to primarily park our vehicles at our residence and using minimal parking areas with dirt surfaces again helps us maintain the environmental integrity of our site, is more in keeping with the character of the area, and minimizes our expense.

Loading Area. We are also asking for an exception/modification/waiver regarding the size and surface of a loading area, loading space, or loading dock. We will not be having

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large trucks nor customers coming and going, as the sum total of our weekly output will fit in a picnic cooler or two. Our plan is to pull a car or pick-up truck up close to the door once or twice a week for the minimum time possible and carry a picnic cooler or two full of cheese to the vehicle. Using a minimally sized loading area with a dirt surface rather than a large area with a gravel surface minimizes the environmental impact to our land and is more in keeping with the character of the area.

Driveway and gates. We are also asking for an exception/modification/waiver regarding the width and surface material of our driveway and size of our gates to allow us to use our current dirt surfaced driveway and gates without modification. Our current dirt surfaced driveway and gate are approximately sixteen feet in width, which is more than adequate for our current and future needs. Again, please see above, this will never be a typically active commercial site with large trucks or numerous cars coming and going. There will be such minimal traffic to and from the site, primarily our personal-use, that increasing the width of the driveway will only expand environmental impact on the current native vegetation, which we are seeking to preserve. Likewise, using a dirt surface for the driveway makes it far easier to self-maintain the driveway, which would be greatly complicated by a gravel surface and create a substantial ongoing expense. Widening the gate would involve a complete tear down of the current gate structure, which has been in place for more than ten years. The width, location and construction of our current gate allows convenient passage of any vehicle we would ever allow onsite.

We deeply appreciate the cooperative and genuinely helpful nature of our interactions with your office and the generous assistance and guidance you have provided in helping us to meet all requirements.

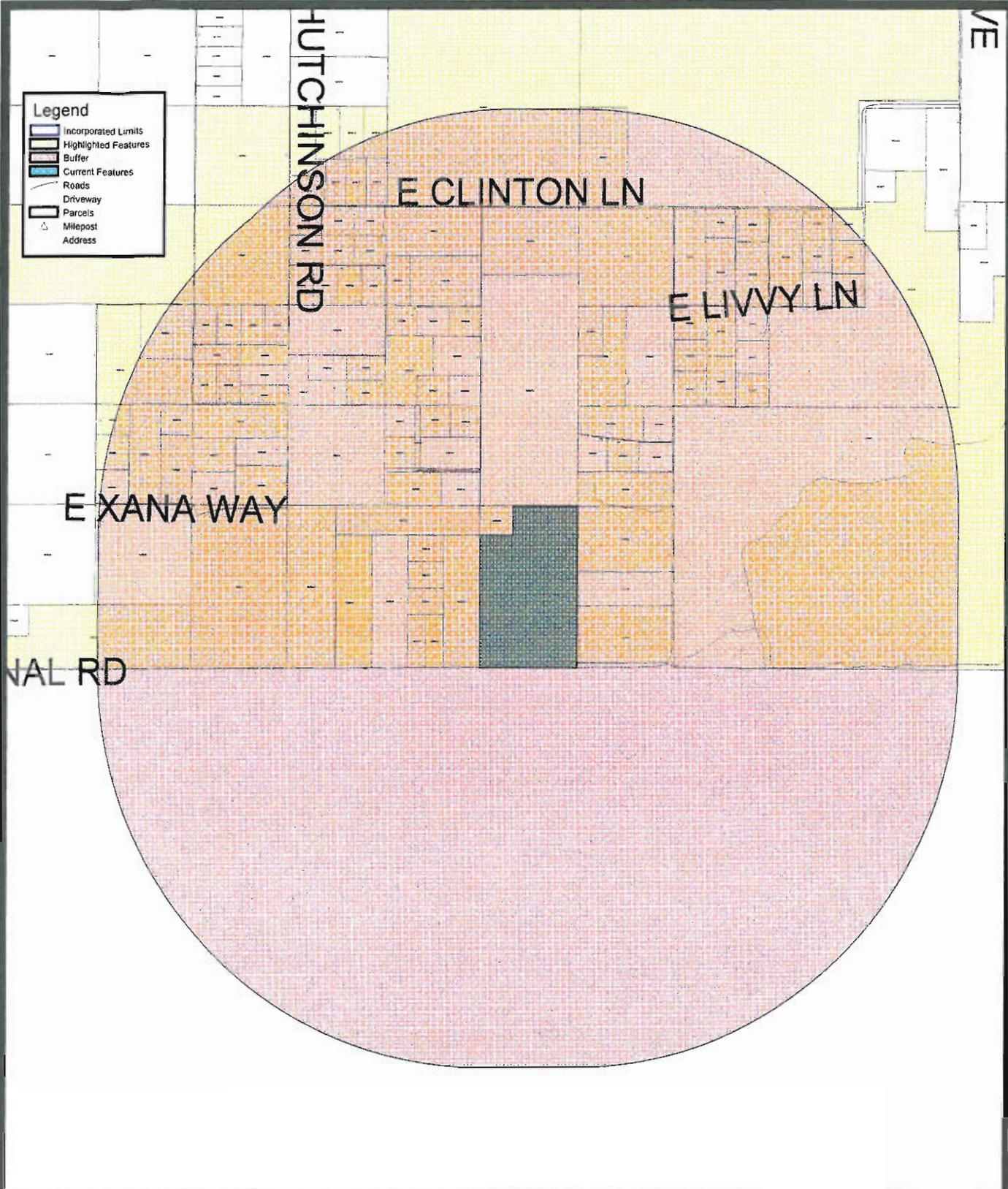
If there are any other exceptions/modifications/waivers, etc. that we should be looking into or asking for, we are more than willing to cooperate.

Again, thank you.

Sincerely,

J.C. Mutchler
11432 S Triple R Ranch Road
Hereford, AZ 85615

Phone: 520.901.0429
jcatbrahma@msn.com



SU-10-04
 Nelson
 104-80-013A
 1 Mile buffer

This map is a product of the
 Cochise County GIS



54





COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Keith Dennis, Planner II
 For: Benny J. Young, P.E. Planning Director
SUBJECT: Docket SU-10-04 (Spencer)
DATE: April 6, 2010, for the April 14, 2010 Meeting

APPLICATION FOR A SPECIAL USE

Docket SU-10-04 (Spencer): The Applicant seeks a Special Use Permit in order to legitimize an existing 70' x 1,200' private airstrip, 3,000 square foot office/shop and 900 square foot hangar on a 61.2-acre parcel, pursuant to Section 607.14 of the Cochise County Zoning Regulations.

The subject parcel (104-80-013A) is located at 11647 S. Apache Sky Road in Palominas, AZ. The Applicant is Glen Spencer of Alan Nelson, LLC.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Size: 61.2 Acres
Zoning: RU-4 (Rural – 1 dwelling per 4 acres)
Growth Category: D
Plan Designation: Rural-Density Residential
Area Plan: Southern San Pedro Valley Area Plan
Existing Uses: Airstrip, office/shop and unfinished hangar
Proposed Uses: Same

Surrounding Zoning

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Undeveloped Land
South	N/A	International Border, Republic of Mexico
East	RU-4	Undeveloped Land
West	RU-4	Undeveloped Land

II. PARCEL HISTORY

2003 – Residential Permit issued for a 3,000 square foot metal storage building. The permit was conditioned for residential storage use only, as an accessory building on (parent) Parcel 104-80-013, which was later split into two parcels (see below).

2004 – Violation issued for landing strip without a permit (V-04-0216). The Violation concerned operation of an "unmanned aerial vehicle" (UAV) from a small landing strip. The Applicant resolved the Violation by discontinuing the use of the airstrip.

2005 – Parcel 104-80-013 split into Parcels 104-80-013A and 013B. The Applicant resides on 013B. The former UAV airstrip, as well as the airstrip and associated structures currently under consideration are on 013A (See map).

2006 – Residential Owner-Builder Opt-Out permit issued for electrical work on the 3,000 square foot building. "Owner-builder opt-out" is an option for homeowner-builders areas for residential construction only. This option is intended to provide permit flexibility for owner-occupied homes/structures, and is not an option for commercial projects.

2007 – Temporary Use Permit issued for a political rally.

2009 – Violation for airstrip and hangar construction without a permit. The Applicant has stopped using the airstrip and stopped work on the hangar pending the outcome of the Special Use process.

III. PROJECT DESCRIPTION

The Applicant seeks a Special Use Permit in order to legitimize an existing airstrip, and to legitimize the existing 3,000 square foot building and unfinished 900 square foot hangar as non-residential structures.

The Applicant, Glenn Spencer of Alan Nelson, LLC, operates a non-profit group called the American Border Patrol. The organization's focus is applying and demonstrating the effectiveness of existing surveillance technologies to control the border region.

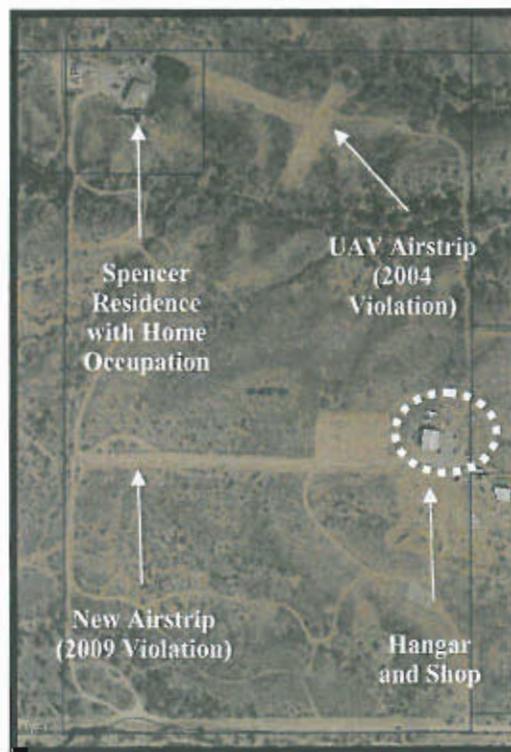
To this end, the organization employs passive ground based surveillance systems and aircraft for border monitoring and reporting. In the past, this has included the use of a "UAV," which consisted of a hobby radio-controlled aircraft outfitted with surveillance and navigation equipment. More recently the groups' focus has moved to manned-aircraft operations. The Applicant owns and maintains a Challenger II Light Sport Aircraft, which is currently based at the Bisbee Municipal Airport. The Applicant flies this aircraft over areas of the U.S.-Mexico border, primarily focused on areas where the border fence has not been completed: East of Douglas, and at the Southern end of the Huachuca Mountains.

The Applicant indicates that the range of the aircraft is limited. The Applicant seeks to continue to base the aircraft out of the Bisbee Airport for flights to the border East of Douglas, and to base the aircraft out of the existing facilities on the subject property for flights beyond the West end of the border fence.

IV. ISSUES

Violations:

The present Docket began as a Zoning Violation for an airstrip and hangar without a permit. Airstrips or other landing facilities are permitted as Special Uses only in Cochise County. As indicated in Section II of this Memo (Parcel History), the present Violation is the second such code enforcement action against the Applicant; County staff cited Mr. Spencer for the same Violation on the same parcel in 2004. While other construction work between the 2004 and 2009 Violations, such as the electrical upgrades to the existing storage building, was performed under permit, the present Violation includes both the construction/operation of the airstrip without a permit, as well as construction without a permit (for the hangar). Aerial photos suggest the airstrip may have been constructed as early as 2007.



Building Code Issues (See Condition #5):

As stated above, the 3,000 square foot building on the property was constructed and conditioned as a residential accessory storage building. During a site visit on March 17, 2010, it appeared to staff that the building is being used as part of the Applicant's business, and not as a residential accessory structure as was conditioned on the original permit. The UAV formerly used by the company and an ultralight aircraft are stored in the building, as are other equipment, materials and items related to the business. Inside the building is an office space with working computers and various communications equipment.

The original building did not have electricity when permitted. The Applicant later obtained a permit to wire the building for electricity. The Applicant utilized the Owner-Builder Opt-Out program to exempt the work from building code inspections. The Owner-Builder Opt-Out

program allows owner to perform work on their own homes or properties, and is available only for residential, owner-builder construction projects. The non-residential use of the 3,000 square foot building means that non-residential building code standards should apply, both for the original construction and subsequent wiring. Because the building already exists, verification of building code requirements would be difficult to accomplish.

Condition #5 is a standard condition reminding Applicants that they are responsible for meeting other conditions, requirements, permits or obligations as may be required by local, state or federal regulations. In this case, the Applicant would be responsible for bringing all existing structures on the property into non-residential code compliance.

Border Patrol Concerns (See Condition #4):

The United States Border Patrol has expressed concern that the operation of the airstrip may cause confusion and draw resources away from curbing illegal activity along the border:

The operation of a light sport aircraft, or for that matter any light aircraft, to and from an airstrip so near the international border will likely draw the notice of law enforcement and the general public who will be unable to discern the legal nature of such activity. Over the past several months there has been an increase of illicit aerial activity crossing into the United States along a good portion of the international border in southern Arizona. The operation of a light sport aircraft so near the border will appear to be suspicious and will subsequently require a response by the OAM (Office of Air and Marine) to ascertain whether or not any illegal activity is taking place. The OAM response is likely to include an air intercept of such craft which poses a degree of risk for OAM personnel and the operator(s) of said craft. The only means apparently available to mitigate such risk and alleviate an unnecessary allocation of resources on the part of the OAM, is for the operator(s) to advise authorities when operations will be conducted and provide some means of verification, although there is no legal obligation to do so or means of compelling the same.

Staff recommends, as Condition of Approval #4, that the Applicant provide the Border Patrol OAM division with flight plans prior to takeoff for any and all flights.

Access (See Conditions #2 and #3):

Access to the property is problematic. The public interest in Border Monument Road was abandoned in 1994, after which time it became a private road (see Right-of-Way Agent's comments, attached). The Apache Sky roadway, upon which the Applicant's residence and the subject property are both addressed, has been abandoned entirely and no easement exists. In fact, the subject property is actually accessed through a private driveway from the subject property East to Border Monument Road. This driveway runs along the property line between two additional parcels also owned by the Applicant. Condition #2 would require the Applicant to dedicate an easement along the driveway, while Condition #3 would require a private maintenance agreement along a two-mile path up to Smith Avenue.

Neighborhood Opposition:

There is significant neighborhood opposition to the request. Correspondence from neighbors is attached to this Memorandum, and is discussed more fully in Section V(G), below.

V. ANALYSIS OF IMPACTS - COMPLIANCE WITH SPECIAL USE FACTORS (SECTION 1716.02)

Section 1716.02 of the Zoning Regulations provides a list of ten criteria staff uses to evaluate Special Use applications. These are considered factors in determining whether or not to recommend approval for a Special Use Permit, as well as to determine what conditions and/or modifications may be needed. Seven of the ten criteria apply to this request; The project complies with one factor as submitted; with the recommended conditions, the proposal would comply with three of the seven applicable factors.

A. Compliance with Duly Adopted Plans: Does Not Comply

The Southern San Pedro Valley Area Plan policies with regard to land use address Special Uses as follows:

Special Uses on scattered RU-4 sites are acceptable if designed to have no off-site negative impacts. The Zoning Regulations allow consideration of many Special Uses. The following list of special uses provides examples of uses that are considered harmonious with the rural/residential character of the plan area if designed to have no off-site impacts and in accordance with the design standards. This list is not exhaustive but provides examples of the scale and type of special uses considered appropriate in the plan area.

The Plan then goes on to describe a number of examples of Special Uses considered by the Plan to be acceptable, provided that design standards are met and off-site impacts are mitigated.

The existence of an airstrip in a Rural-Density Residential area may or may not be considered as compliant with the plan. While at first glance such a land use might not be considered compatible with the rural surroundings, ranching areas with landing facilities are somewhat common in Cochise County.



Northeast view of the existing 3,000 square foot building; the airstrip is in the foreground.

With regard to the site and building design, the subject property cannot be said to comply with the design guidelines offered in the Area Plan document. Applicable design standards are found on pages 7 and 8 of the Plan, and call for building elevations at the time of permitting; landscape plans that address runoff; gravel surfacing to match the color of the surrounding terrain. Additionally, the design guidelines require building "colors and materials to blend with the surrounding area." The gravel surfacing of the runway and the color and style of the buildings on

the site may or may not be considered compliant with the Southern San Pedro Valley Area Plan. Ideally, had the site and proposed land use observed the Special Use process initially, the Area Plan policies could have been addressed and followed.

B. Compliance with the Zoning District Purpose Statement: Complies

The project would comply with the purpose statement for RU Zoning Districts as listed in Article 6 of the Zoning Regulations, in that land uses not appropriate for more densely populated areas would be appropriate as Special Uses in these Districts.

C. Development Along Major Streets: Not Applicable

D. Traffic Circulation Factors: Complies (Subject to Conditions #2 and #3)

Section 102.B.3.a of the Comprehensive Plan discourages non-residential development from directly accessing streets that primarily serve residential areas. The nature of development in the area would be characterized as a remote, rural area with a scattered mix of livestock grazing, rural residential, and undeveloped land. The Applicant's business is largely that of a single-proprietor, and his personal residence is located on a lot adjacent to the project site. Most traffic to and from the site would thus be residential in nature. Conditions #2 and #3 would establish legal access for the project site; these conditions are described below.



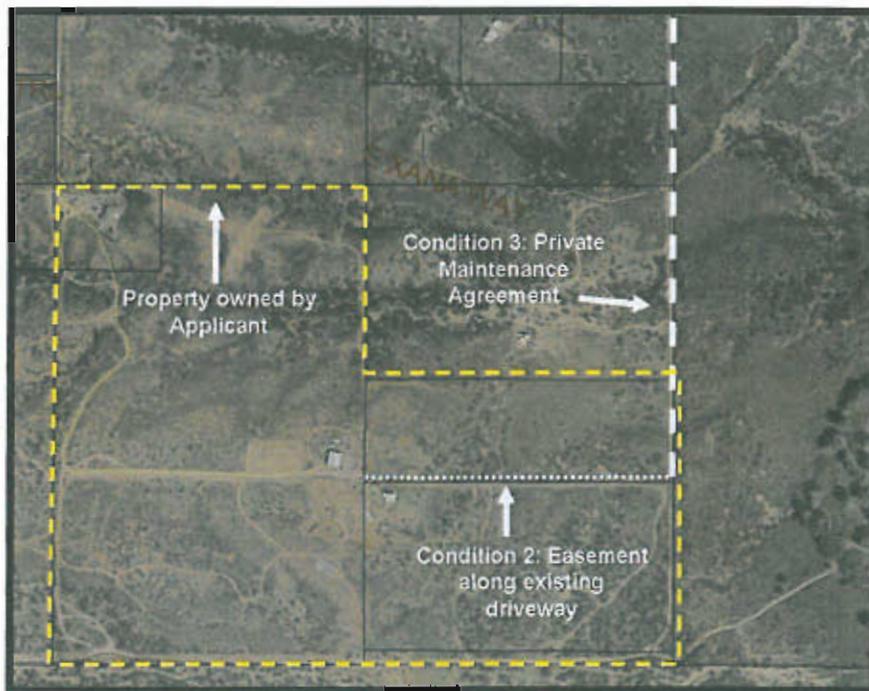
View of the partially-constructed 900 square foot hangar.

E. Adequate Services and Infrastructure: Does Not Comply (See Conditions #2 and #3)

The existing structures on the property are not served by a well or septic system; there are no wet utilities on the site. Electricity is provided by APS, and the project site is within the Palominas Fire District boundaries.

Although the property is addressed from Apache Sky Way, access actually comes from an existing driveway heading West from Border Monument Road. Border Monument Road is a 30-foot wide private easement, widening to 60 feet at its intersection with Mohave Greenway Road. From there, travel continues North to Eastbound Clinton Lane, which then connects with the nearest County-maintained road, Smith Avenue. From the hangar on the subject property to Smith Avenue, the distance is just over two miles by car.

Section 1807.04.A of the Zoning Regulations sets the access requirements for non-residential uses: "No building permit for a non-residential use shall be issued unless the a site has direct and permanent access to a publicly maintained street or to a street where a private maintenance agreement is in place." In order to establish legal access for the project site, staff recommends, as Condition of Approval #2, that the Applicant dedicate a 20-foot easement along the driveway connecting the project site with Border Monument Road, prior to issuance of a certificate of occupancy. Staff also recommends, as Condition of Approval #3, that the Applicant enter into a Private Maintenance Agreement with County staff, to ensure that the path between the project site and the Smith Avenue/Clinton Lane intersection is maintained in a safe, passable condition.



*Looking West along the driveway connecting the property with Border Monument Road.
Condition #2 would require a 20-foot access easement be dedicated here.*

F. Significant Site Development Standards: Complies (See Condition #1)

The Applicant can meet all applicable site development standards. There are a number of small deficiencies on the site plan which would be remedied prior to permit issuance. Condition #1, which is a standard condition of approval for all Special Uses, would require a revised site plan meeting all applicable site development standards prior to issuance of a permit.

G. Public Input: Does Not Comply

The Applicant completed the required Citizen Review as part of the Special Use Application process. The County has also completed its required legal noticing and property owner notification. To date, the Department has received correspondence from 15 property owners, 13 of which oppose the request and two of which support it. Objections focus on noise and low-altitude flights; possible effects on livestock, birds and other wildlife in the San Pedro valley; and concerns about the airstrip having been constructed and used without a permit.

Section 1716.01.G describes the Public Input factor: *"If there is major public opposition to a proposed special use, this may indicate that the technical evaluation regarding compatibility of the use does not concur with the view of local residents and a recommendation of denial may be appropriate. If public concerns have been raised, it is fair to ask if the applicant has made a reasonable effort to address these concerns through the Citizen Review Process. If there is major public support of a proposed use, this may be a factor in favor of the request."*

The Applicant has attempted to address noise concerns by performing sound tests at the Bisbee Municipal Airport as discussed below in Section V-I of this Memo (Off-Site Impacts).

H. Hazardous Materials: Not Applicable**I. Off-Site Impacts: Does Not Comply**

As stated in the Special Use Questionnaire, and in subsequent conversations and other disclosures by the Applicant, there have been and would not be any discernable off-site impacts related to the operation of the airstrip. The Applicant conducted sound tests at the Bisbee Municipal Airport in order to demonstrate that the type of aircraft most often used by American Border Patrol – a Challenger II light sport aircraft – does not produce excessive noise. In an email dated February 8, 2010, the Applicant wrote:

"Ran a realistic noise test today on the Challenger II. At 1200 feet from point of full power takeoff (distance to nearest house off subject property) maximum noise was 69.6 dB. Repeated test with same results. At cruising pattern altitude noise level was below ambient and sometimes less than 40dB."

Nevertheless, the Department has received correspondence from neighbors indicating that the plane can be heard on neighboring properties, that air operations associated with the American Border Patrol may include multiple aircraft, and that they often fly at low altitudes, creating a disturbance in the neighborhood. On the site visit in 2009 that led to the present Violation, County code enforcement staff were alerted to an imminent takeoff by the sound of the aircraft on the runway.

J. Water Conservation: Not Applicable

The property currently has no well or septic system. If such utilities were provided on site, fixtures would have to comply with the Sierra Vista Sub-Watershed Conservation Policy Plan.

VI. PUBLIC COMMENT

The Department mailed notices to neighboring property owners within one mile of the property. Staff posted the property on March 17, 2010, and published a legal notice in the *San Pedro Valley News-Sun* on March 25, 2010. To date, staff has received statements of support from two neighbors, and opposition from 13 neighbors.

VII. SUMMARY AND CONCLUSION

Factors in Favor of Allowing the Special Use

1. Two neighbors have expressed support for the project.

Factors Against Approval

1. The Applicant constructed the airstrip and hangar without permits.
2. The present violation is the second code enforcement action involving the operation of an airstrip without a permit on the same property.
3. The Applicant appears to be using a structure conditioned for residential use only for non-residential purposes. The manner in which the structure has been constructed (under residential building code with owner-builder opt out for subsequent electrical work) makes building code compliance, Southern San Pedro Valley Area Plan design guidelines, and other issues typical of non-residential permits difficult or impossible to verify and/or enforce.
4. The U.S. Border Patrol has expressed concern about the operation due to a recent increase in illegal cross-border activities involving aircraft. These concerns center on the proximity of the landing strip to the international border, and the possibility that the Applicant may be intercepted by Border Patrol aircraft while in flight.
5. 13 neighbors have expressed opposition to the request.

VIII. RECOMMENDATIONS

Based on the factors in favor of approval, staff recommends **denial** of the Special Use request.

Sample Motion: *Mr. Chair, I move to approve Docket SU-10-04, based on the Factors in Favor of approval as the Findings of Fact, with the conditions of approval recommended in the staff memorandum.*

Should the Commission decide to approve the request, staff recommends the following conditions be applied:

1. Within thirty (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 and obtain 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 and with Section 1705 of the Zoning Regulations, the completed Special Use Permit questionnaire, a completed joint permit 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. Prior to operation, the Applicant shall dedicate a 20-foot wide access easement along the existing driveway connecting the subject property with Border Monument Road.
3. Prior to operation, the Applicant shall enter into a private maintenance agreement with County staff, to ensure that those portions of Border Monument Road and Clinton Lane which connect the subject property with Smith Avenue remain in a safe, passable condition.
4. The Applicant shall notify the Border Patrol Office of Air and Marine of all flight plans prior to takeoff.
5. 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. This includes obtaining a Cochise County Land Clearing Permit and filing a "Notice of Landing Area Proposal" with the Federal Aviation Administration (FAA Form 7480-1).
6. Any changes to the approved Special Use shall be subject to review by the Planning Department and may require additional modification and approval by the Planning and Zoning Commission.

IX. ATTACHMENTS

- A. Special Use Application
- B. Location Map
- C. Site Plan
- D. Transportation Planner Memo
- E. Right-of-Way Agent Memo
- F. Citizen Review Report
- G. Public Comment
- H. Support/Protest Map



COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Susan Buchan, Director

COCHISE COUNTY PLANNING DEPARTMENT
COMMERCIAL USE/BUILDING PERMIT/SPECIAL USE PERMIT QUESTIONNAIRE
(TO BE PRINTED IN INK OR TYPED)

TAX PARCEL NUMBER: 104-80-013A

APPLICANT: ALAN C NELSON, LLC

MAILING ADDRESS: PO BOX 217, HEREFORD, AZ 85615

CONTACT TELEPHONE NUMBER: GLENN: (520) 803-7703

PROPERTY OWNER (IF OTHER THAN APPLICANT): _____

ADDRESS: _____

DATE SUBMITTED: 1/28/2010

Special Use Permit Public Hearing Fee (if applicable)	\$	<u>300</u>
Building/Use Permit Fee	\$	<u>300</u>
Total paid	\$	<u>600</u>

check #1074 paid Jan 28, 2010 (KD)

PART ONE - REQUIRED SUBMITTALS

1. Cochise County Joint Application (attached).
2. Questionnaire with all questions completely answered (attached).
3. A minimum of (6) copies of a site plan drawn to scale and completed with all the information requested on the attached Sample Site Plan and list of Non-residential Site Plan Requirements. (Please note that nine (9) copies will be required for projects occurring inside the Building Code enforcement area. In addition, if the site plan is larger than 11 by 17 inches, please provide one reduced copy.)
4. Proof of ownership/agent. If the applicant is not the property owner, provide a notarized letter from the property owner stating authorization of the Commercial Building/Use/Special Use Application.
5. Citizen Review Report, if special use.

6. Proof of Valid Commercial Contractor's License. (Note: any building used by the public and/or employees must be built by a Commercial Contractor licensed in the State of Arizona.)
7. Hazardous or Polluting Materials Questionnaire, if applicable.

OTHER ATTACHMENTS THAT MAY BE REQUIRED DEPENDING ON THE SCOPE OF THE PROJECT

1. Construction Plans (possibly stamped by a licensed Engineer or Architect)
2. Off-site improvement Plans
3. Soils Engineering Report
4. Landscape Plan
5. Hydrology/Hydraulic Report
6. Sierra Vista Sub-Watershed Water Conservation Overlay Zone Permit Checklist
7. Traffic Impact Analysis (TIA): **Where existing demonstrable traffic problems have already been identified such as high number of accidents, substandard road design or surface, or the road is near or over capacity, the applicant may be required to submit additional information on a TIA.**
8. Material Safety Data Sheets
9. Extremely Hazardous Materials Tier Two Reports
10. Detailed Inventory of Hazardous or Polluting Materials along with a Contingency Plan for spills or releases

The Commercial Permit Coordinator/Planner will advise you as soon as possible if and when any of the above attachments are required.

PART TWO - QUESTIONNAIRE

In the following sections, thoroughly describe the proposed use that you are requesting. **Attach separate pages if the lines provided are not adequate for your response.** Answer each question as completely as possible to avoid confusion once the permit is issued.

SECTION A - General Description (Use separate sheets as needed)

1. What is the existing use of the property? MAINTENANCE SHOP

2. What is the proposed use or improvement? PRIVATE AIRSTRIP

3. Describe all activities that will occur as part of the proposed use. In your estimation, what impacts do you think these activities will have on neighboring properties? Take-off and landing of a challenger II light sport aircraft. Minimal impacts, if any.

4. Describe all intermediate and final products/services that will be produced/offered/sold.

Aerial surveys of the border, videotapes, and analysis by a not-for-profit, 501c(3) AZ Corporation.

5. What materials will be used to construct the building(s)? (Note, if an existing building(s), please list the construction type(s), i.e., factory built building, wood, block, metal)

6. Will the project be constructed/completed within one year or phased? One Year X
Phased if phased, describe the phases and depict on the site plan.

7. Provide the following information (when applicable):

A. Days and hours of operation: Days: 7 Hours (from 5 AM to 10 PM)

B. Number of employees: Initially: 1 Future:
Number per shift Seasonal changes

C. Total average daily traffic generated:

(1) How many vehicles will be entering and leaving the site.
1

(2) Total trucks (e.g., by type, number of wheels, or weight)
0

(3) Estimate which direction(s) and on which road(s) the traffic will travel from the site?

East on driveway - then North on Border Monument Rd.

(4) If more than one direction, estimate the percentage that travel in each direction

50% each way

(5) At what time of day, day of week and season (if applicable) is traffic the heaviest

8-9 AM and 4-6 PM

D. Circle whether you will be on public water system or private well. If private well, show the location on the site plan.

Estimated total gallons of water used: per day 0 per year 0

E. Will you use a septic system? Yes ___ No X If yes, is the septic tank system existing? Yes ___ No ___ Show the septic tank, leach field and 100% expansion area on the site plan.

F. Does your parcel have permanent legal access*? Yes X No ___
D. If no, what steps are you taking to obtain such access?

*Section 1807.02A of the Cochise County Zoning Regulations stipulates that no building permit for a non-residential use shall be issued unless a site has permanent and direct access to a publicly maintained street or street where a private maintenance agreement is in place. Said access shall be not less than twenty (20) feet wide throughout its entire length and shall adjoin the site for a minimum distance of twenty (20) feet.

Does your parcel have access from a (check one): X private road or easement**
____ County-maintained road
____ State Highway

**If access is from a private road or easement provide documentation of your right to use this road or easement and a private maintenance agreement.

G. For Special Uses only - provide deed restrictions that apply to this parcel if any.
Attached _____ NA X

H. Identify how the following services will be provided:

Service	Utility Company/Service Provider	Provisions to be made
Water		
Sewer/Septic		
Electricity	APS	
Natural Gas		
Telephone	QWEST	
Fire Protection	PALOMINAS FIRE	

SECTION B - Outdoors Activities/Off-site Impacts

1. Describe any activities that will occur outdoors.

Take-off and landing of Challenger II

2. Will outdoor storage of equipment, materials or products be needed? Yes ___ No if yes, show the location on the site plan. Describe any measures to be taken to screen this storage from neighboring properties. _____
3. Will any noise be produced that can be heard on neighboring properties? Yes ___ No ___ if yes; describe the level and duration of this noise. What measures are you proposing to prevent this noise from being heard on neighboring properties? Aircraft may be heard by one resident; however, it is very unlikely. Operations will be restricted to within 1000 feet of border.
4. Will any vibrations be produced that can be felt on neighboring properties? Yes ___ No if yes; describe the level and duration of vibrations. What measures will be taken to prevent vibrations from impacting neighboring properties? _____
5. Will odors be created? Yes ___ No If yes, what measures will be taken to prevent these odors from escaping onto neighboring properties? _____
6. Will any activities attract pests, such as flies? Yes ___ No If yes, what measures will be taken to prevent a nuisance on neighboring properties? _____
7. Will outdoor lighting be used? Yes ___ No If yes, show the location(s) on the site plan. Indicate how neighboring properties and roadways will be shielded from light spillover. Please provide manufacturer's specifications.
8. Do signs presently exist on the property? Yes ___ No If yes, please indicate type (wall, freestanding, etc.) and square footage for each sign and show location on the site plan.
- A. _____ B. _____ C. _____ D. _____
9. Will any new signs be erected on site? Yes ___ No If yes, show the location(s) on the site plan. Also, draw a sketch of the sign to scale, show the copy that will go on the sign and **FILL OUT A SIGN PERMIT APPLICATION** (attached).

10. Show on-site drainage flow on the site plan. Will drainage patterns on site be changed?

Yes ___ No

If yes, will storm water be directed into the public right-of-way? Yes ___ No ___

Will washes be improved with culverts, bank protection, crossings or other means?

Yes ___ No

If yes to any of these questions, describe and/or show on the site plan.

11. What surface will be used for driveways, parking and loading areas? (i.e., none, crushed aggregate, chipseal, asphalt, other)

Concrete/crushed aggregate/chip-seal

12. Show dimensions of parking and loading areas, width of driveway and exact location of these areas on the site plan. (See site plan requirements checklist.)

13. Will you be performing any off-site construction (e.g., access aprons, driveways, and culverts)?

Yes ___ No If yes, show details on the site plan. **Note: The County may require off-site improvements reasonably related to the impacts of the use such as road or drainage improvements.**

SECTION C - Water Conservation and Land Clearing

1. If the developed portion of the site is one acre or larger, specific measures to conserve water on-site must be addressed. Specifically, design features that will be incorporated into the development to reduce water use, provide for detention and conserve and enhance natural recharge areas must be described. The Planning Department has prepared a *Water Wise Development Guide* to assist applicants. This guide is available upon request. If the site one acre or larger, what specific water conservation measures are proposed? Describe here or show on the site plan submitted with this application.

No water use

2. How many acres will be cleared? less than 1

If more than one acre is to be cleared describe the proposed dust and erosion control measures to be used (Show on site plan if appropriate.)

SECTION D - Hazardous or Polluting Materials

Does the proposed use involve hazardous materials? These can include paint, solvents, chemicals and chemicals wastes, oil, pesticides, herbicides, fertilizers, radioactive materials, or biological agents. Engine repair, dry cleaning, manufacturing and all uses that commonly use such substances in the County's experience require completion of the attachment.

No Yes If yes, complete the attached Hazardous Materials Attachment. Engine repair, manufacturing and all uses that commonly use such substances in the County's experience also require completion of the attachment. *5 gal can of 40/1 FUEL/OIL MIXTURE*

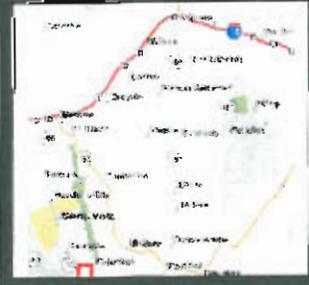
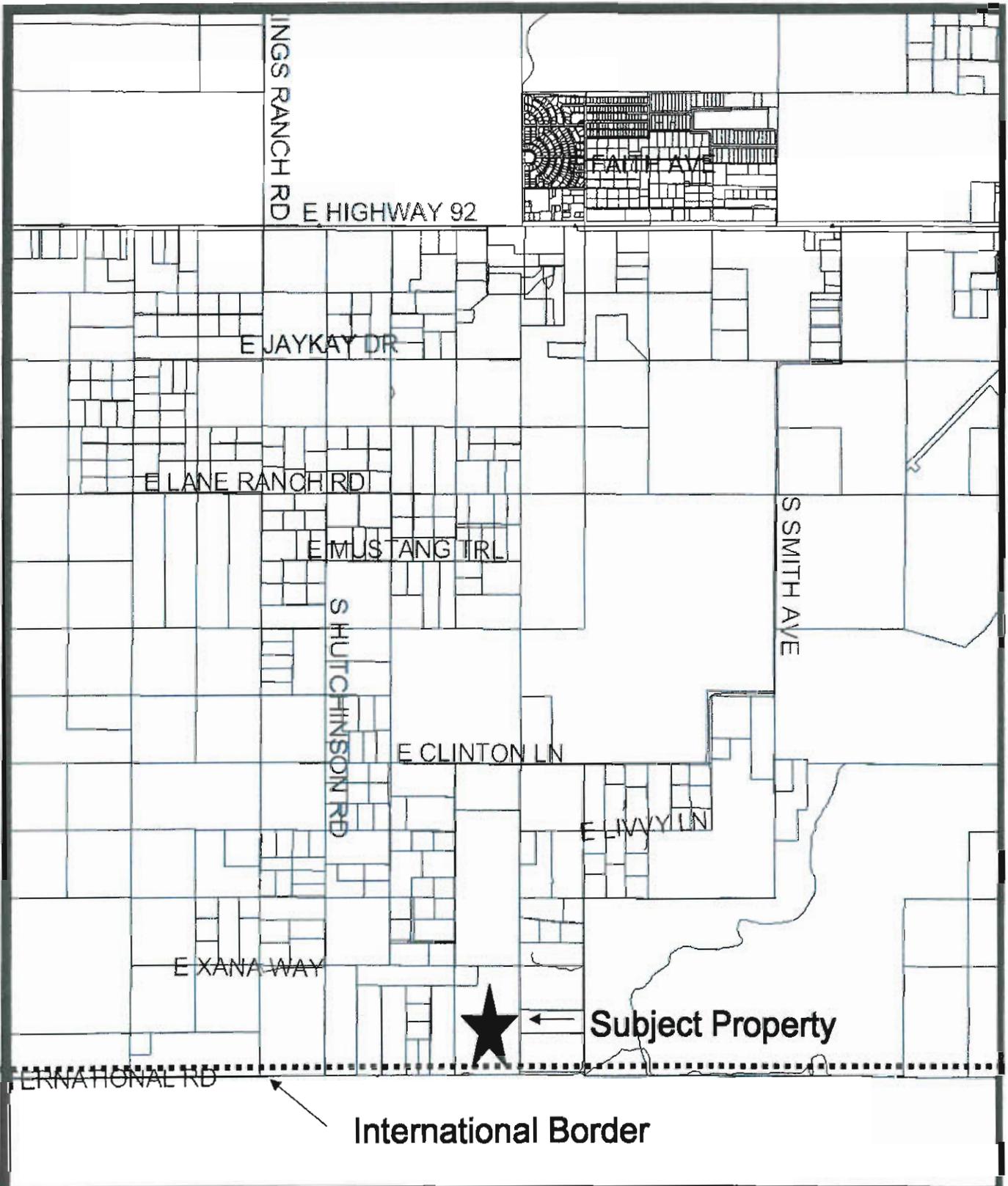
Applications that involve hazardous or polluting materials may take a longer than normal processing time due to the need for additional research concerning the materials' impacts. The Arizona Department of Environmental Quality (ADEQ) Compliance Assistance Program can address questions about Hazardous Materials (1-800-234-5677, ext. 4333.)

SECTION E - Applicant's Statement

I hereby certify that I am the owner or duly authorized owner's agent and all information in this questionnaire, in the Joint Permit Application and on the site plan is accurate. I understand that if any information is false, it may be grounds for revocation of the Commercial Use/ Building/ Special Use Permit.

Applicant's Signature *[Signature]*

Date signed *1/27/2019*



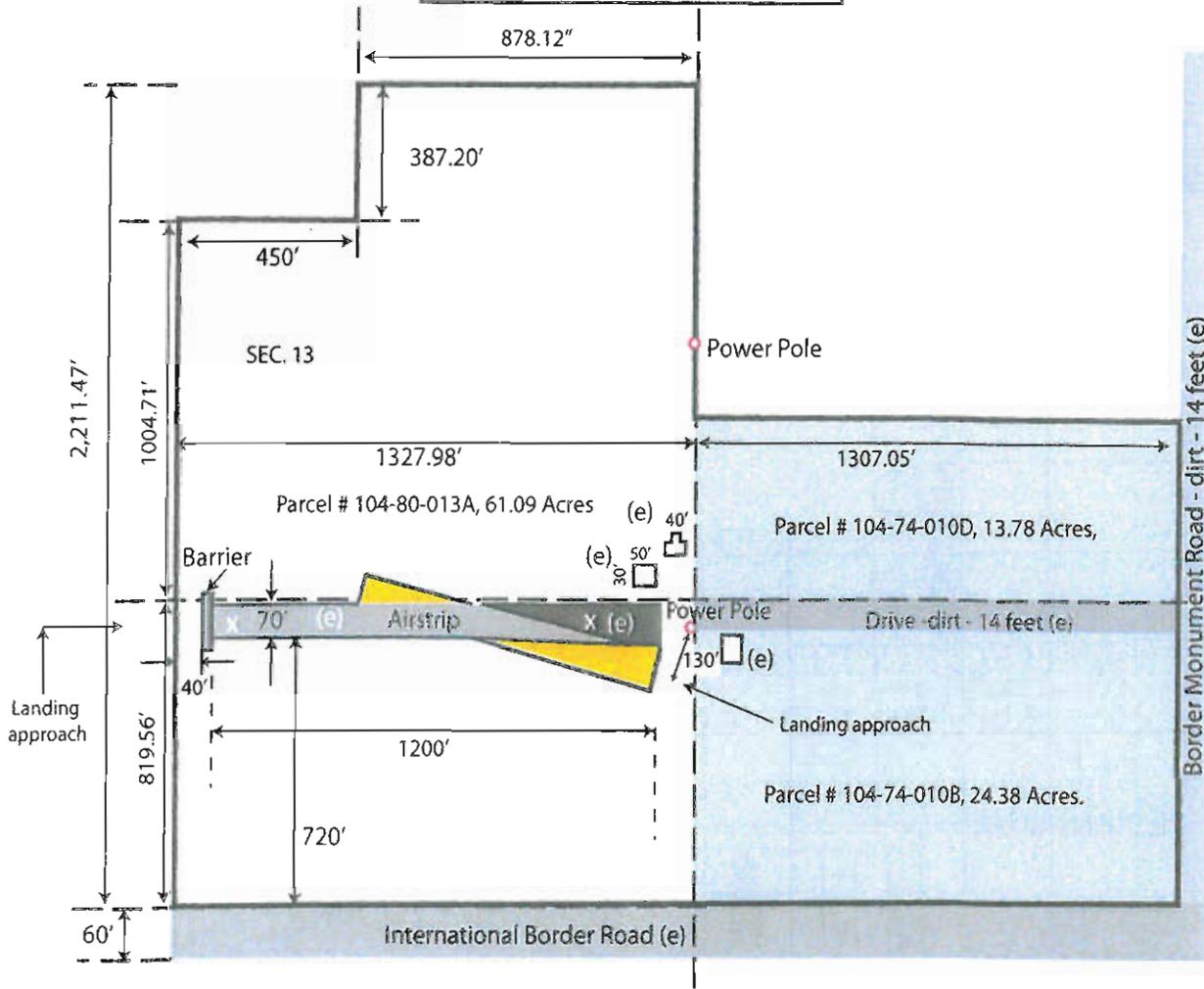
Docket SU-10-04
(Spencer)
Location Map

This map is a product of the Cochise County GIS




Site Plan

Zone: R-4
 Palominas Ranches Unit 3
 Cochise County, Arizona
 Tax Parcel Id # 104-80-013A, 61.09 Acres



Mexico

Mexico

Scale
 1" = 300 feet

Alan C. Nelson, LLC
 P.O. Box 217
 Hereford, AZ 85615
 520-803-7703

Parcel # 104-74-010B, 24.38 Acres, 11720 S. Border Monument Rd.
 Parcel # 104-74-010D, 13.78 Acres, Vacant Land
 Parcel # 104-80-013A, 61.09 Acres, 11647 S. Apache Sky Rd (Shop Bldg)

73
 C



Rough Rider

Hutchinson

Hutchinson

One mile

Apache Sky Rd

Clinton

Border Monument Rd

Special Use Permit
Light Sport Aircraft
Private Airfield
Area of Operations
Alan C. Nelson, LLC
Applicant

ENROUTE FLIGHT ZONE >500'

Border Road

Mexico

© 2009 INEGI

TAKEOFF AND LANDING ZONE

RARELY USED

ENROUTE FLIGHT ZONE >500'

74
C



COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Benny J. Young, Director

MEMORANDUM

TO: Keith Dennis, Planner II

FROM: Karen L. Lamberton, County Transportation Planner

SUBJECT: Apache Sky Airstrip /SU-10-04/Parcel Number 104-80-013A/104-74-010D &010B

DATE: March 4, 2010

The applicant is applying for a Special Use permit a private airstrip and 3,000 foot hanger. No new construction is proposed (the airstrip and hanger pre-existing). The airstrip is 70 feet by 1,200 feet and is intended for the use of a single light general aviation aircraft (currently the applicants owns a Challenger II light sport aircraft).

Access to this site is provided from State Route 92 to Smith Avenue, (a primitive, 20 foot, native surfaced road that is county-maintained for about 3.8 miles) then to S. Apache Sky Rd. There is no dedicated right-of-way for either road and access is via private easements to the subject parcels.

Pilots have a duty to conduct their flying operations in a "prudent" manner but the Federal Aviation Authority does not specifically regulate private, restricted airstrips. Adequate take off and landing airspace is needed with a requirement that private general aviation planes maintain an altitude of 500 feet above any structures thus the need for a landing strip sized to allow the descent and lift-off at take-off and landing (C4 CFR 91). Every airstrip is then site specific in terms of what might safe and prudent.

The applicant is proposing a 1,200 foot runway which, according to FAA Advisory Circular No 150/5325-4B, exceeds the minimum expected length for small general aviation planes traveling at speeds of 30-50 knots and allows for an adequate angle of approach and take offs on the airstrip.

Recommendations

The Applicant should be advised that maintaining adequate and safe landing conditions may include:

- ✚ Removal of all trees, scrubs and vegetation along the length of the landing strip;
- ✚ Clearing of all obstacles such as large rocks or tree stumps along the length of the landing strip;

75
D

- ↓ Monitoring the height of vegetation in the immediate path of take off and landing, taking into account any natural slope in the area;
- ↓ Preparing and maintaining an even surface area free from bumps, holes and ruts with a smooth and packed landing surface; and
- ↓ Addressing drainage and rain/flood water impacts to the landing strip surface area.

The applicant should be aware of his duty to report the airstrip to the FAA labeled as a private, restricted airstrip. The applicants should also be aware of, and adhere to, flight restrictions related to national boundaries and military airspace.

We have no additional requirements for this applicant and have no objection to granting the requested permit.

cc: CP-09-5091; Diane Cratsenburg, Highway Department



COCHISE COUNTY
HIGHWAY AND FLOODPLAIN DEPARTMENT
MEMORANDUM



MAKING IT BETTER

Your County Questions answered:

www.cochise.az.gov

DATE: March 5, 2010
TO: Keith Dennis, Planner II
FROM: Terry Couchenour, Right-of-way Agent II
SUBJECT: Legal access regarding Special Use Permit Application (SU-10-04)

Question:

1. What is the nature of legal access to APN 104-80-013A?
2. What is the nature of legal access to a conglomerate property comprising of APN 104-74-010B, 104-74-010D, 104-80-013A and 104-80-013B?

Answer:

1. If we do not consider the other properties which the applicant owns, APN 104-80-013A obtains legal access from a private easement comprising of the south 30' of APN 104-74-009A and the north 30' of APN 104-74-010F. This private easement is commonly referred to as Xana Way and connects to Border Monument Road to the east. Previously a public easement, the public interest was abandoned by the Board of Supervisors per Resolution 05-26. My records indicate that physical access has not been established along this easement. However the applicant owns several adjacent properties and it is assumed that he has the right to travel over those lands. Therefore please see answer number 2.
2. The conglomerate property has existing legal access from Xana Way as mentioned above and from Border Monument Road. Within this area Border Monument Road is a 30' wide private easement. Previously a public easement, the public interest was abandoned by the Board per Resolution 94-31. Traveling north, Border Monument Road becomes a 60' wide public easement once we reach Mojave Greenway Road and from there a network of public rights-of-way exist along Clinton Lane to Smith Avenue to State Route 92. My records indicate that physical access has been established along this easement and that a driveway exists from Border Monument Road west to the subject property, traversing APN 104-74-010B and -010D. Regarding Apache Sky Road, per my records legal access does not exist. The Board abandoned both the public and private interest in easements per Resolution 97-77 and 04-20 which effectively cut off access from Apache Sky Road. The property owner at that time, Ms. Heaney who also owned the entire conglomerate, was aware of the abandonment proposals and had no objections.

Please see attached map.

E 77



This map is a product of the Cochise County GIS



0 1" = 400'

78

E

10480011H

S APACHE SKY RD

10480013B

10480013A

10480014F

10474009A

E XANA WAY

10474010F

10474010D

S BORDER MONUMENT RD

10474010B

Legend

- Roads
- Driveway
- Parcels
- Private easement
- Public easement

You are invited to submit comments on our request for a special use permit on our property

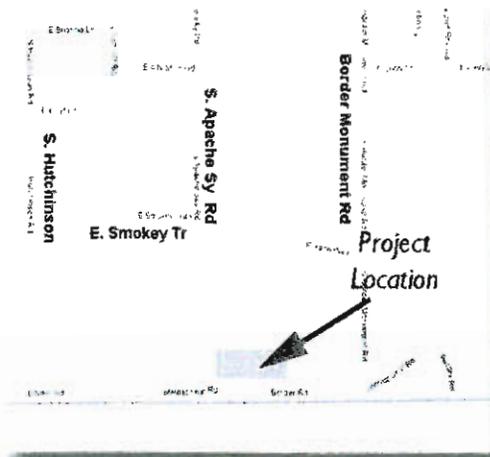
Project location: 11720 S. Border Monument Rd. (see insert map)

Project description: To allow the use of a part of a border property as a private airstrip for a Challenger II Light Sport Aircraft.

- The flight path of the Challenger II would be restricted to a zone along the border (see Figure 1 attached).
- The Challenger is very quiet and most if not all of the nearby residents will probably never hear it, and would rarely see it.
- The Challenger is based at Bisbee Airport. The private field would be used as an alternate.
- The Challenger is owned by American Border Patrol, a non-profit Arizona corporation. They will use the aircraft to patrol along the border only.



Challenger II
Max Gross Wt. 950 lbs
Stall Speed 28 mph



⇒ *Your input is important to us.*
We look forward to hearing from you.

Make sure your questions are answered

Submit written comments to: Meliissa Jaramillo
Alan C. Nelson, LLC
P.O. Box 217
Hereford, AZ 85615

We would be happy to meet with you

Please let us know if you would like for us to arrange a meeting.

Email comments to: mjaramillo12@cox.net
To talk to a project representative call: 520-803-7703

DENNIS J. WILCOX JR.

P O Box 3712
Sierra Vista, AZ 85636
Phone (520) 378-1447
Dennisjwilcox667@msn.com

February 1, 2010

Melissa Jaramillo
Alan C. Nelson, LLC
P.O. Box 217
Hereford, AZ 85615

Dear Melissa,

Thank you for contacting me about the proposed special use permit on your property. My concern with this proposed airstrip is that it is right next to my property, which means that you would be flying low over my property. According to the map that you enclosed, my land would be the most affected, since it is next door to where the alternative field for flights to take off from is located.

I currently have my land up for sale and this proposed airstrip would affect my ability to sell my land. In effect it would make my land worthless since no-one wants airplanes flying low over their house.

I have three lots located along this flight zone that would be adversely affected and I cannot give my approval and support for this proposed airstrip.

Sincerely,

Dennis J. Wilcox Jr.

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Alan C Nelson, LLC
PO Box 217
Hereford, AZ 85615
(520)803-7703

February 10, 2010

Dennis J. Wilcox Jr.
PO Box 3712
Sierra Vista, AZ 85635

Mr. Wilcox:

I am in receipt of your letter dated Feb. 1, 2010 regarding the proposed private airstrip on land owned by Alan C. Nelson, LLC. Upon checking we have learned that the property immediately adjacent to ours to the west is owned by Mr. Gene Shaw. We have spoken to Mr. Shaw and he is aware of the proposed airstrip and has confirmed that he is the owner of the adjacent property. I understand that your property is located just to the west of Mr. Shaw's.

At no time would the aircraft operated by American Border Patrol fly over your property at less than 500 feet above ground level. This is pursuant to FAA flight regulations. The Challenger II aircraft is based at Bisbee Municipal airport and has been flying along the border regularly. This will not change, regardless of the outcome of the application to the Cochise County Planning Commission.

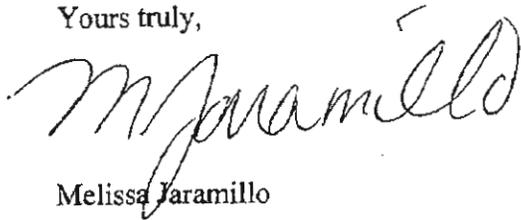
If the application is approved, Challenger pilots are instructed to climb to cruising altitude with the perimeter of our property and fly right on the border at more than 500 feet.

A recent test showed that the maximum noise level of the Challenger II at takeoff was 63 dB at a distance of 1200 feet from the point of takeoff. Your property line is about 2200 feet from the point of takeoff and the noise level should be much lower. At cruising altitude the noise level was less than 52 dB. In other words, the Challenger II is very quiet. We will show a video of the noise level tests at the March 10 hearing.

In summary, the use of the private airstrip on our property should have no additional impact on your property.

I will be happy to provide additional information as you may require.

Yours truly,



Melissa Jaramillo

THOMAS M. KELLY
P.O. BOX 12791
FORT HUACHUCA, AZ 85670

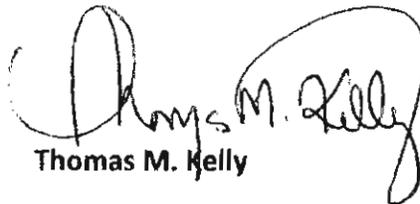
9 MARCH 2010

ALAN C. NELSON, LLC
P.O. BOX 217
HEREFORD, AZ 85615

I have looked over the materials you sent. I have also looked at the application form for the Special Use Permit for legal establishment of an already existing airstrip. I see that this request to the Cochise County Planning Department (CCPD) is in response to a determination that a zoning violation had been committed. The fact that you and the American Border Patrol organization did not see fit to survey your neighbors prior to construction of the airstrip is troubling. Thankfully the CCPD was on the ball and has ensured that proper procedures are being followed.

I am not comfortable with having an almost 1000lb air vehicle operating in such close proximity to my property located at the far southern end of Hutchinson -Parcel 104-80-010.. My concerns include several areas including; safety, privacy and pollution, both chemical and noise.

In light of these serious issues and our intent to someday build our home on our property on Hutchinson I must state that I am solidly against approval of your Special Use Permit Application.


Thomas M. Kelly

SPECIAL USE: Docket SU-10-04 (Spencer)

YES, I SUPPORT THIS REQUEST

Please state your reasons: NO PARTICULAR REASON, WE JUST
DON'T OPPOSE IT. MAYBE THIS WILL LEAD TO
MORE DEVELOPMENT.

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: _____

(Attach additional sheets, if necessary)

PRINT NAME(S): ROBERT SNYDER LILLIAN SNYDER

SIGNATURE(S): Robert Snyder Lillian Snyder

YOUR TAX PARCEL NUMBER: 104-74-008 F3 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 11460 S. BORDER MONUMENT DR

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on April 6, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline; however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Keith Dennis
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603
Email: kdennis@cochise.az.gov
Fax: (520) 432-9278

COCHISE COUNTY PLANNING DEPARTMENT
APR 5 2010
PLANNING DEPARTMENT
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SPECIAL USE: Docket SU-10-04 (Spencer)

YES, I SUPPORT THIS REQUEST

Please state your reasons: if it's already in use
why shouldn't it be made
Legal?

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: _____

(Attach additional sheets, if necessary)

PRINT NAME(S): M. Ruth Findley

SIGNATURE(S): [Signature]

YOUR TAX PARCEL NUMBER: 02-104-74-007 H (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 1106 N Lea Caswell, #24 85201 (was 1502 S Michigan Ave Phoenix, AZ 85023)

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on April 6, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline; however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Keith Dennis
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603
Email: kdennis@cochise.az.gov
Fax: (520) 432-0278

COCHISE COUNTY
MAR 11 2010

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SPECIAL USE: Docket SU-10-04 (Spencer)

YES, I SUPPORT THIS REQUEST

Please state your reasons: _____

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: SEE ATTACHED SHEET.

THANK YOU

(Attach additional sheets, if necessary)

PRINT NAME(S):

RAVOY GARRANO

SIGNATURE(S):



YOUR TAX PARCEL NUMBER: 104-74-009N5 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 4712 W. LINNEN DR. GLENDALE AZ 85308

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on April 6, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline; however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Keith Dennis

Cochise County Planning Department

1415 Melody Lane, Building E

Bisbee, AZ 85603

Email: kdennis@cochise.az.gov

Fax: (520) 432-9278

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Cochise County Planning Department

Attention: Keith Dennis

1415 Melody Lane, Building E

Bisbee, AZ 85603

Dear Keith Dennis

My name is Randy Garland and recently I have received a letter in response to an air field being constructed and used just 2 lots to the south of my summer home. (Ref. Docket SU-10-04 attached). I'm in complete disagreement. **I do not support this request.**

My reasons are many however I will state a few. This neighbor is a threat to his surrounding neighbors. He continuously denies request and blocks the physical path from his neighbors families to walk down and visit the river, at times he even becomes threatening. He flies this drone now even without permits. This is a threat for all of us as neighbors with his erratic behaviors as well as our privacy as we enjoy our hot tubes with our intimate others or just family outings. All ready we are subject to his cameras mounted high above his roof line invading our privacy. He continuously raises dust with his erratic driving of his Hummer and at times blocks the road from passage as he claims he's doing a sweep? How much more should we endure from this online business, their followers and unstable people representing them?

Furthermore I'm a very proud US citizen born in Patagonia AZ and being fully supportive of our US homeland security (Board Patrol). These individuals who hide and profit from this online want-a-be boarder watchers are only interfering with the professionals from completing there missions.

My brother (Monty Garland) was a deputy director for homeland defense for many years recruiting up through the ranks from running dirt trails right here in Cochise county. I have seen the worst of these types of erratic business men.

Please put a stop to the disgrace of our country, troops and this type of un-punishable criminals.

Give some protection to the small families that have taken up residency here and call it home.

Thank You,

Randy Garland

4712 W. Lindner Dr.

Glendale, AZ 85308

rg5996@msn.com

SPECIAL USE: Docket SU-10-04 (Spencer)

YES, I SUPPORT THIS REQUEST

Please state your reasons: _____

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: see attached

(Attach additional sheets, if necessary)

PRINT NAME(S):

Dennis J. Wilcox Jr.

SIGNATURE(S):

Dennis J. Wilcox Jr.

YOUR TAX PARCEL NUMBER:

104-80-014 J

(the eight-digit identification number found on the tax statement

from the Assessor's Office)

104-80-014 K

104-80-014 M

104-80-014 L

104-80-014 N

YOUR ADDRESS

P.O. Box 3712 Sierra Vista, Az 85636

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on April 6, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline; however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

COCHISE COUNTY

APR 05 2010

PLANNING

RETURN TO: Keith Dennis

Cochise County Planning Department

1415 Melody Lane, Building E

Bisbee, AZ 85603

Email: kdennis@cochise.az.gov

Fax: (520) 437-0778

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DENNIS J. WILCOX JR.

PO Box 3712
Sierra Vista, Az 85636
Phone (520)378-1447
Dennisjwilcox667@msn.com

April 5, 2010

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

RE: Docket SU-10-04

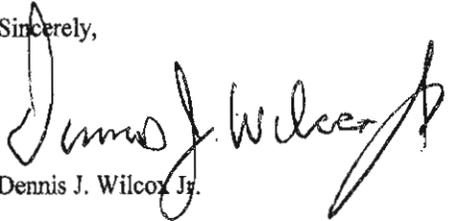
Dear Keith Dennis,

I am writing concerning the special use permit for Glen Spencer of Alan Nelson, LLC. I have personally sent a letter to Melissa Jaramillo of Alan Nelson, LLC, and I received an answer to that letter and a map showing where my land is in relation to the proposed airstrip. I've enclosed a copy of each letter and the map.

I do not support this request. I have several parcels of land that will be affected by this. My reasons are as follows:

1. My properties lie directly under the enroute flight zone and it would directly affect my ability to sell my property.
2. This is not a neighbor asking to fly his personal plane, this is for the American Border Patrol, with several pilots, and much more activity can be expected than a residential neighborhood should have.
3. I fear that all this activity would negatively affect the wildlife that currently use this area.
4. I feel that, since my neighbor has been promised that Alan Nelson LLC would buy his land, that he and others in the neighborhood may not stand up against this proposed airstrip due to unrealized (so far) promises.

Sincerely,


Dennis J. Wilcox Jr.

From: MaryFrances Clinton [mailto:clintonx@theriver.com]
Sent: Thursday, February 04, 2010 4:42 PM
To: 'MaryFrances Clinton'
Cc: 'kdennis@cochise.az.gov'
Subject: P&Z Hearing Regarding Glenn Spencer Landing Strip Violation

Hello Neighbors and Friends –

You recently received a notice from Cochise County about a Special Use Hearing regarding Glenn Spencer's un-permitted construction and use of a landing strip – completed without having first asked for or gained any prior zoning approval for that additional and un-approved use of his Residential Property. Those of you within 1500 feet of Mr. Spencer's property may have already received Mr. Spencer's County-required mailing regarding that issue. If so, it came to you under the name – which you may not have recognized – of "Alan C. Nelson LLC" under which Mr. Spencer owns that property.

A strong and unanimous neighborhood objection is the only effective way to put a stop to Mr. Spencer's newest, latest and most documentable activity using (and abusing) our neighborhood. In this latest and most recently un-permitted activity Mr. Spencer is again supporting his personal agenda at the expense of the peaceful holding and integrity of our community. There is absolutely no reason our neighborhood should continue suffering the type of abuse another neighborhood before us put a stop to several years ago, resulting in Mr. Spencer's arrival in our neighborhood.

Unfortunately, many of us are painfully familiar with the long history of Mr. Spencer's activities in our area. For those who may not be, I'll summarize the highlights of Mr. Spencer's time with us below. In any case, with or without reading that necessarily rather long "short summary" of our neighborhood experience with Mr. Spencer –

PLEASE DO PROMPTLY AND FAITHFULLY RETURN THAT NOTICE TO THE COUNTY – WITH AS STRONG AN OBJECTION TO THE ESTABLISHING OF THIS LANDING STRIP IN OUR AREA AS YOU FEEL COMFORTABLE STATING AS YOUR OPINION.

And – Since I don't have Everyone's e-mail, please pass this information on to any of your neighbors who might not receive it from me. We need to make our voice roundly heard in order to give P&Z a basis for DENYING Mr. Spencer's tardy and completely involuntary request for approval of his already-constructed but un-permitted Landing Strip and Airplane Hanger.

MANY THANKS!

MaryFrances Clinton
366-1104

* * * * *

AS TO GLENN SPENCER'S HISTORY IN OUR COMMUNITY ...

This Special Permit Hearing appears to be a single issue about a landing strip, something which in its own right is very likely to draw strong objections. However, issues with Mr. Spencer in our neighborhood go back even before the arrival of his manufactured home at the end of 2003. Prior to his arrival here, Mr. Spencer had been forced out of his SV neighborhood because of his militant anti-immigration activities involving storage of weapons in his home and because of incidents involving those weapons and threats against his neighbors there. As a resident of that neighborhood, our own supervisor, Pat Call, was part of the successful effort to remove Mr. Spencer from that residential area.

In the more than half-dozen years since his arrival among us, Mr. Spencer has proved himself a determined and persistent scofflaw – pressing the boundaries of neighborliness and reasonable behavior in the many ways he has conducted himself and his activities. This permit hearing is not the result of Mr. Spencer's good citizenship – expecting to obtain a permit Before adding a new use to his residential property. It is – instead – the result of neighbors objecting – again – to an activity for which Mr. Spencer – again – attempted to do something he should have – again – expected to obtain proper authorization for – in advance.

In this most recent incident, the materials Mr. Spencer sent to the neighbors within 1500 feet of his property (under the cover of his participation in the Alan C. Nelson LLC) simply stated that plane will (Now?) be based at the Bisbee airport. In fact, when Mr. Spencer received that Notice of Violation in early December, that plane had been stored in a hanger built on his property in August without any permit – and had been flying from an equally un-permitted landing strip on his property on which construction began last September.

That material also asserted that plane would be used “only” for “Patrolling The Border.” Although I, with many others, recognize the importance and necessity of dealing with the problem of illegal immigration, I also know Mr. Spencer has no official authorization for that work – and feels no restriction in his efforts to pursue it. The Border Patrol is in fact the Agency responsible for that work. They are officially mandated, trained, supervised and tax-payer funded for the manpower and equipment they require for that task.

By comparison, Mr. Spencer's American Border Patrol “operation” is carried on through his American Border Patrol website. Anyone accessing that website will immediately recognize the hate mongering tone of his “operation” – for which Mr. Spencer vigorously seeks tax-deductible 501(c)3 “charitable” donations. In the 2005-6 years of high response to his promotion of this issue, those (reported) donations were in the range of \$3 million. With the changing economy and times, Mr. Spencer's most recently reported donations were “only” a bit larger than \$1 million.

And, although Mr. Spencer's ABP website proudly claims his “operation” is conducted from his 100+ acre property, he managed to avoid a neighborhood effort to have him seek a Home Business Permit by saying his business address was a P.O. Box in SV. At that time, Mr. Spencer assured Planning and Zoning that “only” his ABP website operated on his residential property – in “just one portion” of his home. Now, on his residentially zoned property in our neighborhood, Mr. Spencer expects to add an airplane hanger and landing strip to his “operations base” as he refers to it on his website – to take the pictures which will raise his ABP millions of “charitable” dollars for his self-appointed and unauthorized work of “fighting illegal immigration.” And he “isn't” running a business there?

Mr. Spencer first came into our area seeking a place to fly his radio controlled “surveillance” planes. He found initial welcome for that activity on the property near the San Pedro at the end of Smith Avenue. But he soon found an even better welcome in November of 2003 on the property he now occupies at the end of Apache Sky which at its southern edge is adjacent to the Border for a quarter of a mile. When Mr. Spencer moved his radio-operated flying activity to the “road” he'd newly graded on that property, that activity was squelched within a few months by neighborhood objection to its activity without Mr. Spencer's having sought or obtained any permit for a landing strip.

Mr. Spencer next planned to use that property as a “campground” for the several hundred people coming to our area as the “citizen watch” against illegal immigration. That activity was finally stopped when, again, neighbors objected and P&Z determined a permit was needed for that activity. Those several hundred campers were finally hosted by the Bible College, which later paid a record fine to the County since they also had no permit for that type of campground. In that same period, Mr. Spencer was also prevented from forcing an access across my own Border Monument Drive driveway which Mr. Spencer's ABP “operation” could then use as a “patrolling” route going down to the San Pedro Riparian Area, to then “patrol” on south to the Border and return round-robin back to his “Headquarters.”

During that long and difficult 2004-6 period, several of Mr. Spencer's neighbors worked with the FAA in a successful effort to have Mr. Spencer sanctioned for his regular flights over our homes at and below the

500' limit of altitude safety. After a night of "exercises" involving men in camouflage who were discovered on a neighbor's property, the Cochise County Sheriff's Department became involved and ended up verifying that Mr. Spencer's flights were indeed taking place at an unacceptably low altitude. The Border Patrol also weighed in on this long series of incidents, finally restricting Mr. Spencer's flying activities from interfering with the Border Patrol's authorized work of patrolling the Border.

While we were still struggling with that low-flying issue, P&Z was involved along with the Sheriff's Department in shutting down an unauthorized shooting range set up on that property. The incident which finally brought that one more question to a head was the evening in January of 2006 when two bullets flew over my head as I walked up my driveway to verify whether the shooting I had been hearing for several hours was indeed coming – again – from that specific area. I was extremely grateful their aim was actually good enough to have missed me!

Although we have recently enjoyed a year or so without new and flagrant ABP-related incidents from Mr. Spencer, his building and using of an un-permitted airstrip and hanger over the 2009 months of August through November now opens our community – again – to a whole new siege of ABP-related problems. Those of you who've lived through all the "Old News" in this long list of abuses by Mr. Spencer can effectively confirm his scofflaw attitude toward the orderliness and peaceful holding of our neighborhood. Those of you who haven't yet been affected by Mr. Spencer's personal and ABP disruptions of our neighborhood would do well to protect yourselves from this expansion of his presence among us.

Our Neighborhood Response will shape and support a P&Z recommendation of DENIAL of this Landing Strip Special Use Permit. Raising Your Neighborhood Voice on this issue Is Absolutely Critical – For ALL Of Us! By your action of sending your comment to the County, you are doing Your Essential Part to support the integrity and peaceful holding of Our Neighborhood. Do It! .

AND THANK YOU Each And Every One for promptly mailing back to the County your VIGOROUS OBJECTION To Mr. Spencer's Being Granted A Special Use Permit For His New Landing Strip.

'Preciate All Of You!
MaryFrances Clinton
366-1104

Special Use: Docket SU-10-04 (Spencer)

For both general and personal reasons, I Do Not Support Granting Mr. Spencer A Special Use Permit For His Airstrip And Hanger.

Generally: In each of his previous abuses, Mr. Spencer has operated from the scofflaw approach of considering himself above the law and immune from any need to seek formal approval from any authority (or support from his neighbors) for his plans. He has simply called in the graders, sent out the invite and taken any other action needed to accomplish his objectives.

- In each previous incident, P&Z, the Sheriff's Department and/or the FAA had to be brought in to provide protection for our community.
- In each of those previous incidents, Mr. Spencer was never "available" for meetings or hearings once those plans and their violations of use or practice came to light.
- In this incident, Mr. Spencer has again flagrantly ignored the reasonable and commonly understood requirement of seeking a Special Use Permit for an airstrip.
- Even worse, an airstrip within a few hundred feet of the US/Mexican Border has always triggered high-profile review of its potential aggravation of Border issues.
- If this airstrip and hangar is approved our Border Patrol agents will be required to apply valuable time and attention to patrolling Mr. Spencer's "citizen operation" in addition to their "real" work of patrolling drug and illegal immigration routes along the Border.

Personally: Mr. Spencer has been a problematic neighbor since his 2003 arrival. His behaviors have ranged from annoying to inconsiderate to abusive. This long and painful experience is chronicled in the two attachments to this response. They're long, but summarized here.

- One attachment takes that neighborhood history back to Mr. Spencer's arrival in our area on his mission of stopping illegal immigration.
 - Mr. Spencer's first action was creating a road/airstrip for flying UAVs on parcel 104-80-013A, stopped by the efforts of both P&Z and the Sheriff's Department.
 - Secondly on that same parcel Mr. Spencer expected to host hundreds of "Border Watchers" participating in the Border Watch gatherings of 2005 and 2006.
 - This was stopped by P&Z, who ultimately collected a large fine from the Bible College which, again with no permits, had allowed those people to camp there.
 - In connection with that "Border Watching" activity, Mr. Spencer attempted to grade a road across my Xana Way driveway which could serve as a "patrolling route" to look for illegal immigrants. That trespass ended when the Board of Supervisors declared Xana Way a private road not connected to any public road.
 - Finally in 2006, Mr. Spencer's low flying over our homes was finally brought to an end when the Sheriff's Department was called in during one of Mr. Spencer's "training" events and confirmed to the FAA that Mr. Spencer was indeed flying below 500' at that time. As a result of that same incident, the Border Patrol also directed Mr. Spencer to avoid any further interference with BP flying activities.

- On another January night in 2006, Mr. Spencer's invitees to the un-permitted shooting range on that property played the dangerous game of (thankfully) missing me with two (possibly warning) long-range rifle shots over my head.
- The other attachment tells of my latest (and very typical) encounters with Mr. Spencer which included experiencing the intimidation of his Hummer-full of barking attack dogs lunging out of the open windows of that vehicle – and a repetition of Mr. Spencer's past pattern of low flying over my home.

Finally: In the law, a person can't be accused or convicted of "future" behavior on the basis of what he "might" do. However, that person's past behavior can be a reasonable if not urgent warning for others to protect themselves against possible, even likely future behavior.

It is in this mode of Preventive Protection that I seek you help in denying Mr. Spencer this new opportunity to again and further expand his potential to additionally abuse our neighborhood using this new and easier "convenience" of a home-based flight operation.

- Mr. Spencer's stated reason for his flying operation is to continue and improve his ability to take pictures of illegal immigration for use on his web site. The briefest exploration of that website will demonstrate its hate-filled incitement to action to fight illegal immigration – particularly by donating to Mr. Spencer's 501(c)3 American Border Patrol.
 - Mr. Spencer's most recently reported donations were over one million dollars. In the 2005-6 "Minute Man" heyday those donations were over three million dollars.
 - Raising that kind of money at the expense of the peaceful holding of our neighborhood is inappropriate if not inexcusable.
- On a related note, the Minute Man Organization has recently disbanded in the wake of the liabilities it recognized from its encouragement of its members to actually "go after" illegal immigrants – instead of just reporting them.
 - To those who follow his website, Mr. Spencer's home-based flying operation would serve as an intriguing invitation which could draw those now "homeless" and very unwelcome enthusiasts of aggressive activity into our neighborhood.
 - With that airstrip in place, those "volunteers" could now use air as well ground efforts for their "stopping" of illegal immigration.
 - If Mr. Spencer is foolish enough to allow that activity to occur, it will happen next door to me and to Mr. Spencer's other immediate neighbors – as well as affecting the rest of our community.
 - And our P&Z and Sheriff's office – and perhaps the FAA as well – will be back at work in our area – again.
 - In addition, those unwelcomed "volunteers" will be traveling through the rest of our neighborhood, using the roads we have built from our own pockets in our larger effort to benefit and improve our community.

- Unfortunately for us – and rightly for good civil order – we neighbors as individual citizens cannot legally do anything about Mr. Spencer's latest incursion into the peaceful holding of our homes and neighborhood.
 - For relief, we are absolutely dependent upon your recognition of the harm and injustice to us of this latest inappropriate addition to Mr. Spencer's "operation."
 - As the individual who submitted this complaint, I have personally and persistently e-mailed those in this directly affected 1-mile area whose contact information I am privileged to have.
 - Because I have deliberately not sought to further divide our neighborhood by creating the backlash drama of a huge or angry demonstration at this scheduled hearing, you may seem to receive unexpectedly few responses on this issue.
 - However, I'd strongly encourage you to value highly all responses you receive from those neighbors. With this less aggressive style of communication and effort, those replies, both for and against, are necessarily from the most consciously aware and responsive of our citizens and they are in fact a representative sampling of sentiment far weightier than simply their own personal and individual opinions.

SPECIAL USE: Docket SU-10-04 (Spencer)

 YES, I SUPPORT THIS REQUEST

Please state your reasons: _____

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: We live in the country because of the
peace & quiet and serenity it offers. This will ruin that.
An air strip this close to the border, you got to be
hidding me! Property values will not be helped by
this. There is already enough air traffic due to Border
Patrol and this request will only make things worse.

(Attach additional sheets, if necessary)

PRINT NAME(S): Steven Jones

SIGNATURE(S): Steven Jones

YOUR TAX PARCEL NUMBER: 104-80-DDW (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 11298 S. SAMUEL Rd. Hurford, AZ 85615

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on April 6, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline; however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Keith Dennis
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603
Email: kdennis@cochise.az.gov
Fax: (520) 432-0278

APR 13 2010

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SPECIAL USE: Docket SU-10-04 (Spencer)

 YES, I SUPPORT THIS REQUEST

Please state your reasons: _____

 X NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: We do not support building an airstrip by the border and also close to the neighbors that moved here to be in nature and the desert. If he had gone through proper channels and it passed we would have with it but he did not.

(Attach additional sheets, if necessary)

PRINT NAME(S): Robert Wells Carlene Wells
SIGNATURE(S): Robert P. Wells Carlene Wells

YOUR TAX PARCEL NUMBER: 104-74-0054 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 8544 E Clinton Lane Hereford AZ 85605

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on April 6, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline; however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

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Bisbee, AZ 85603
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Fax: (520) 432-9278

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SPECIAL USE: Docket SU-10-04 (Spencer)

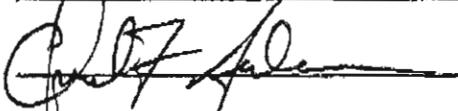
 YES, I SUPPORT THIS REQUEST

Please state your reasons: _____

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: I DON'T WANT ANY ACCESS FOR DRUG
RUNNING SMALL PLANES ^{THAT} COULD ACCESS THIS LANDING STRIP,
UNDETECTED. THERE ARE STILL NOISE ABATEMENT PROBLEMS
W/ LITE AIRCRAFT AND THE DANGER OF THEM CAUSING PROBLEMS
W/ NEIGHBORS ANIMALS, THE BIGGEST PROBLEMS IS LAND
PRICES WILL GO DOWN, IF HE WILL BUY MY 4 ACRES FOR \$45,000
THAT WOULD BE FINE. (PLEASE READ ATTACHMENT.

(Attach additional sheets, if necessary)

PRINT NAME(S): ORVAL F ANKROM CAROL A ANKROM
SIGNATURE(S):  

YOUR TAX PARCEL NUMBER: 10480008 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 2914 SOFTWIND DR, SIERRA VISTA, AZ 85650

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Bisbee, AZ 85603
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SPECIAL USE: Docket SU-10-04 (Spencer)

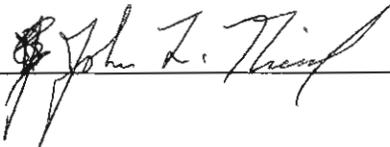
YES, I SUPPORT THIS REQUEST

Please state your reasons: _____

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: Please see enclosed letter.

(Attach additional sheets, if necessary)

PRINT NAME(S): John L. Niesel Barbara A. Niesel
SIGNATURE(S):  

YOUR TAX PARCEL NUMBER: 104-79-012 5 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 11210 S. Hutchinson, Palominas, AZ
3101 E. Pershing Ave., Phx. AZ 85032

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on April 6, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline; however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

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1415 Melody Lane, Building E
Bisbee, AZ 85603
Email: kdennis@cochise.az.gov
Fax: (520) 432-9278

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COCHISE COUNTY

MAR 2 2010

John and Barbara Niesel

3101 E. Pershing Avenue

Phoenix, Arizona 85032

Cochise County Planning Department

1415 Melody Lane

Bisbee, Arizona 85603

Re: **Docket SU-10-04 (Spencer)**

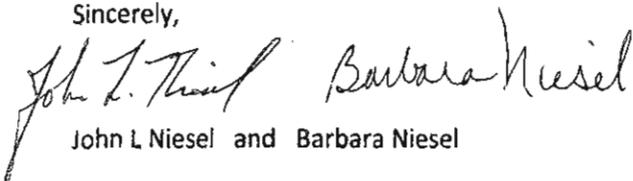
Cochise County Planning and Zoning Commission:

My wife and I do not support this request for a *Special Use Permit* in order to legitimize an existing 70' X 200' private airstrip and 3000 square foot hangar.

While on our property we had frequently, and sometimes daily, heard and seen a small plane or an orange ultralite plane flying back and forth over the border fence. Although we are opposed to any private flights in the area because of possible interference with Border Patrol surveillance (by airplane, helicopter, and cameras) and Fort Huachuca air traffic, we are shocked to learn that the flights may not have been legitimate. Our concept of a pilot has always been that of a responsible person. Unnecessary air traffic in our area is disruptive to natural bird and animal habitat. We say "unnecessary" because the parcel is accessible by land.

The location of a private airstrip and hanger so close to the border poses present and possible future problems. The recent killing of a Cochise County rancher highlights the extent to which drug cartels will go (assuming this case was drug related – but other killings certainly have been). We know the drug cartels own and operate many small as well as large airplanes. What or who would prevent them from landing and taking off from this private airstrip at the border? How long would it take for law enforcement to reach the airstrip compared to the amount of time it would take to load a supply of drugs on the airplane and fly off? What about the future for this airstrip? If Mr. Spencer were to move, or be a victim of these ruthless drug runners, or die of natural causes, then would this airstrip not be highly desired by the drug cartels simply because of its location? How much air traffic could there be under different ownership? We recalled that previously there was a request for construction of a private airstrip in a similar location along the border that we opposed at the time for some of the same reasons: the area is accessible by land; the air space should be primarily used by law enforcement; there are airports and airstrips nearby; and the area is a well-known natural habitat for birds and wild life.

Sincerely,


John L. Niesel and Barbara Niesel

A 99

SPECIAL USE: Docket SU-10-04 (Spencer)

YES, I SUPPORT THIS REQUEST

Please state your reasons:

NO, I DO NOT SUPPORT THIS REQUEST

Please state your reasons:

The intrusion into our privacy, with noise and increased activities over, and around the area, are not part of our decision to buy, build & live in this part of the valley. Existing small airports should suffice, also, the potential increased drug trafficking is definitely possible.

(Attach additional sheets, if necessary)

PRINT NAME(S):

TINA White

Jack White

SIGNATURE(S):

Tina White

Jack White

YOUR TAX PARCEL NUMBER:

104-79-011 RI

(the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS

8541 E. Clinton Lane, Hereford, AZ 85615

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Cochise County Planning Department

1415 Melody Lane, Building E

Bisbee, AZ 85603

Email: kdennis@cochise.az.gov

Fax: (520) 432-0278

COCHISE COUNTY

APR 03 2010

PLANNING

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SPECIAL USE: Docket SU-10-04 (Spencer)

YES, I SUPPORT THIS REQUEST

Please state your reasons: _____

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: See attached

(Attach additional sheets, if necessary)

PRINT NAME(S):

for Veal Family Trust
Jack R. Veal Lorraine C. Veal

SIGNATURE(S):

Jack R. Veal Lorraine C. Veal

YOUR TAX PARCEL NUMBER: 104-80-005A (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 11481 S. Apache Sky Rd, Palominas, AZ 85615

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Bisbee, AZ 85603
Email: kdennis@cochise.az.gov
Fax: (520) 432-9278

COCHISE COUNTY

APR 9 2010

PLANNING

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

April 3, 2010

Mr. Dennis,

As occupants of the Veal Family Trust, we oppose the request of Glenn Spencer to receive a Special Use Permit for an airstrip as outlined on your notice dated March 23, 2010. Our property adjoins Spencer's property at our southern edge. We do not feel activities associated with this second airstrip are in keeping with the residential and ranching flavor of our neighborhood any more than the first unpermitted UAV airstrip. The fact this is a rural neighborhood with room to ranch and ride our horses is what attracted us to this area when we purchased our property in 1993. The business activities of the non-profit American Border Patrol and for-profit Border Technologies, Inc. operating from 104-74-010 B, 104-74-010D, 104-80-013A and 104-80-13B continue to generate traffic, noise, and unsafe activity of heavy traffic with frequent speeding through our residential neighborhood from parcels.

We feel the cameras Spencer uses on his Cessna and now on this Challenger are an invasion of our privacy and the right to a reasonable expectation of privacy at our home. According to a news story posted recently on KVOA at <http://www.kvoa.com/news/low-cost-border-cams-zoom-in-on-illegals/>, Spencer says there's no hiding below from the high-def camera flying above. Soon, a liquid helium sensor thermal camera will mount to the plane, "It can spot an individual at five miles plus this plane can handle four cameras simultaneously." We can understand the US Border Patrol using a camera watch system in the area. The US Border Patrol must comply with privacy laws in the release of videos. We do not believe Spencer does or will limit his camera activities to "border watching." The request to legitimize this second airstrip he built without a permit is typical of Spencer's activities in the area. If he tells you he will not do something, you can bet he will.

The first time we ever met Spencer on January 7, 2005, was on the day we discovered he contracted with an outfit to have utilities installed on his property. He told the backhoe operator for B&M Construction to push down our south fence and dig a trench across our private property without asking our permission. We had cows on the pasture during this time, showing his total disregard for our property. We found out after the fact that the APS field agent specifically told him he would have to ask our permission to trench across our property because no public easement exists in that area. Spencer told the APS field agent, Frank Zeppeda, that he would contact us. A man of his word, Spencer never called or visited us to ask permission. Cochise County Sheriff's Department responded to our complaint, investigated and filed a report. During our discussions that day, Spencer told us of his plans to operate a UAV from the property, then owned by Kathy Heaney. We told him we did not want any of his activities encroaching on our

property. After assurances that would not happen, we discovered that once again, a man of his word, he indeed was flying over our property. We had satellite service installed on January 19, 2005. On that day, the installers also witnessed his UAV crashing into the power lines on our property. He continues to act as an inconsiderate neighbor with numerous acts of trespassing, resulting in additional calls and subsequent reports to the Cochise County Sheriff's Department. We are quite puzzled with his encroachment activities to his neighbors when he claims to be so outraged by incursions of illegals from south of the border.

After he finally stopped with the UAV activity, we then started getting low airplane flights over our house piloted by Glenn Spencer. The plane was flying low enough that we could see the identification numbers clearly. An inquiry at the FAA web site of <http://www.faa.gov/> led us to the registered owner. We contacted the owner and told him what was occurring. The owner told us Spencer was leasing the plane from him. After we made it very clear we would hold the owner responsible for any incidents at our property caused by Spencer's use of the plane, the owner contacted Spencer to say he could no longer lease to him. Shortly thereafter, we started getting low flights from a different plane. Once again, the identification number was very clear, N3422L. A check with the FAA web site shows the plane registration to Border Technology, Inc., Spencer's for-profit business at 11615 S. Apache Sky Road. The Apache Sky Road address is the same Spencer uses for his non-profit American Border Patrol home-occupation. Spencer received a home-occupation permit May 23, 2006 without notification to neighboring residents.

Once the low-flying events over our property began, they continued to occur for well over six months. According to an email we received from the FAA dated December 6, 2005 Spencer attributed one low flying incident to a test of tracking equipment from his Tactical Operations Center/Border Shop at 11720 S. Border Monument Road, the site of the newest airstrip. He stated the equipment was working properly and no further low flights would occur. As a man of his word, Spencer continued to fly low over our property until the Cochise County Sheriff's Department observed and validated neighbor's complaints, reporting his activities to the FAA.

Most recently, the ultra light activities began. We have observed Spencer taking off and flying low over another neighbor's home in his Challenger a few months ago. He was flying from west to east dropping low quickly over two other neighbors' homes. It appeared he was trying to land on his original airfield adjacent to his home/headquarters with the Apache Sky Road address. The airfield and the flight path described is clearly visible on a Google earth map. The landings were unsuccessful because he could not drop down quickly enough after passing his home/headquarters. After about four attempts, he flew back towards Bisbee Airport. Once again, man of his word, he was not low flying over a neighbor's home.

As for the noise of his current aircraft, we do hear his activity. Man of his word, we have no doubt that once he is "legitimized," the Bisbee Airport will not be used to base the aircraft. We fear that he will expand the newly built airstrip parallel to Border Road to accommodate his

Cessna, N3422L. A check to the FAA web site shows a current registration of the Cessna to his Border Technology, Inc. company.

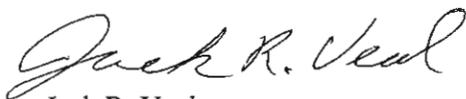
After receiving his home occupation permit, we noted activities from his then three employees outside of any normal business hours. According to his home occupation permit, he only has permission for one employee. Cochise Planning and Zoning does not respond to inquiries regarding the traffic and activities at 104-80-013B, 11615 Apache Sky Road. Can we believe that Cochise Planning and Zoning would address any violations on 104-80-013A? Sorry, but their record of accomplishment is unproven. Spencer, man of his word, will push forward as a nuisance with his activities without regard for our residential area.

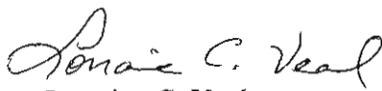
What are the proposed hours of operations? He was not required to answer that question for a home-occupation permit resulting in traffic seven days a week at all hours of the evening. What about employees? How many? He stated one employee for the home-occupation permit, but we see about three persons regularly traveling in and out. The traffic we see is more in keeping with an industrial park area than a residential neighborhood. We can just imagine what it will be like after being "legitimized." The very word "legitimized" implies he is currently performing an illegitimate activity.

Sorry that this letter is long, but we feel we had to let the Board know the history so they can make an informed decision. Is this the type of activity they feel is warranted in a historically residential neighborhood? Would they like this activity occurring in their backyards?

Respectfully,

For the Veal Family Trust


Jack R. Veal


Lorraine C. Veal

Dennis, Keith

From: Karen H Finn [finnhess@earthlink.net]
Sent: Thursday, April 01, 2010 7:08 AM
To: Dennis, Keith
Subject: Spencer's Airstrip

Hi Keith,

I appreciate the conversation we had yesterday. It left me with a feeling that someone actually cares about this concern of ours. My opinion on this subject of the airstrip and associated activity is PLEASE NO!!! Below are the reasons.

1. SECURITY: This militia activity draws unnecessary attention to our neighborhood. We are watched 24/7/365 by the cartel by a man in the trees just across the border from us (verifiable by the Border Patrol). More provocation by the American Border Patrol and their flying and landing here only draws more attention to our quiet neighborhood. In light of the recent murder by illegals of a harmless local rancher, I don't want to be the closest person living to a militia organization that is stirring up this hornets nest of trouble. Trouble is I am the closest person living to this group and it makes me on edge constantly. I do believe that by stopping his flying activities his threat level will greatly decrease and peace and quiet will be restored. Another factor is that the cartel uses ultra lights for their drug activities, the Border Patrol informs me, so his plane adds to the confusion for them and us. In another light we don't know who flies the plane, is he taking our pictures?, is the cartel using the web site and the info and pictures for their own activities? The whole affair smells of trouble and the only reason its happening is for monetary reasons, DONATIONS, DONATIONS, DONATIONS!!!! to the American Border Patrol. That organization has NO respect for the neighbors, proven by building a airstrip and hanger without regard for county rules, and then asking permission!!

2. NOISE: the plane they say is very quiet, is not. I can hear it coming from 2 miles away. I spend alot of time in the Riparian area on the San Pedro, bird watching and hiking. It's one of the big reasons we bought this property and having this plane fly the treetops along the river corridor is the most intrusive activity I could imagine. It's an utter disregard for nature. It's even more frustrating when you realize it's for no other reason than to try and find illegals. They are already gone by the time he shows up. They travel at night,duh!!! It's a disturbance to the serenity of the area and areas like this are very hard to find.

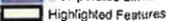
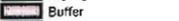
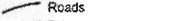
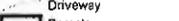
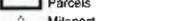
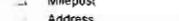
3. PERSONAL: I'm a 100% disabled vietnam vet who suffers from PTSD and all these disturbances don't help my condition. The aggravation this group has caused over the years is way over the top for a residential neighborhood and this last act crosses the line of decency. It has got to stop! If this goes forward it will allow them to fly more planes, have more activity and they already have a blatant disregard for rules and regulations so I would suggest not giving them an inch or they'll take a mile. I'm located less than 600 ft. from the hanger, not 1200 ft. Parcel I.D.02 104-74-010F

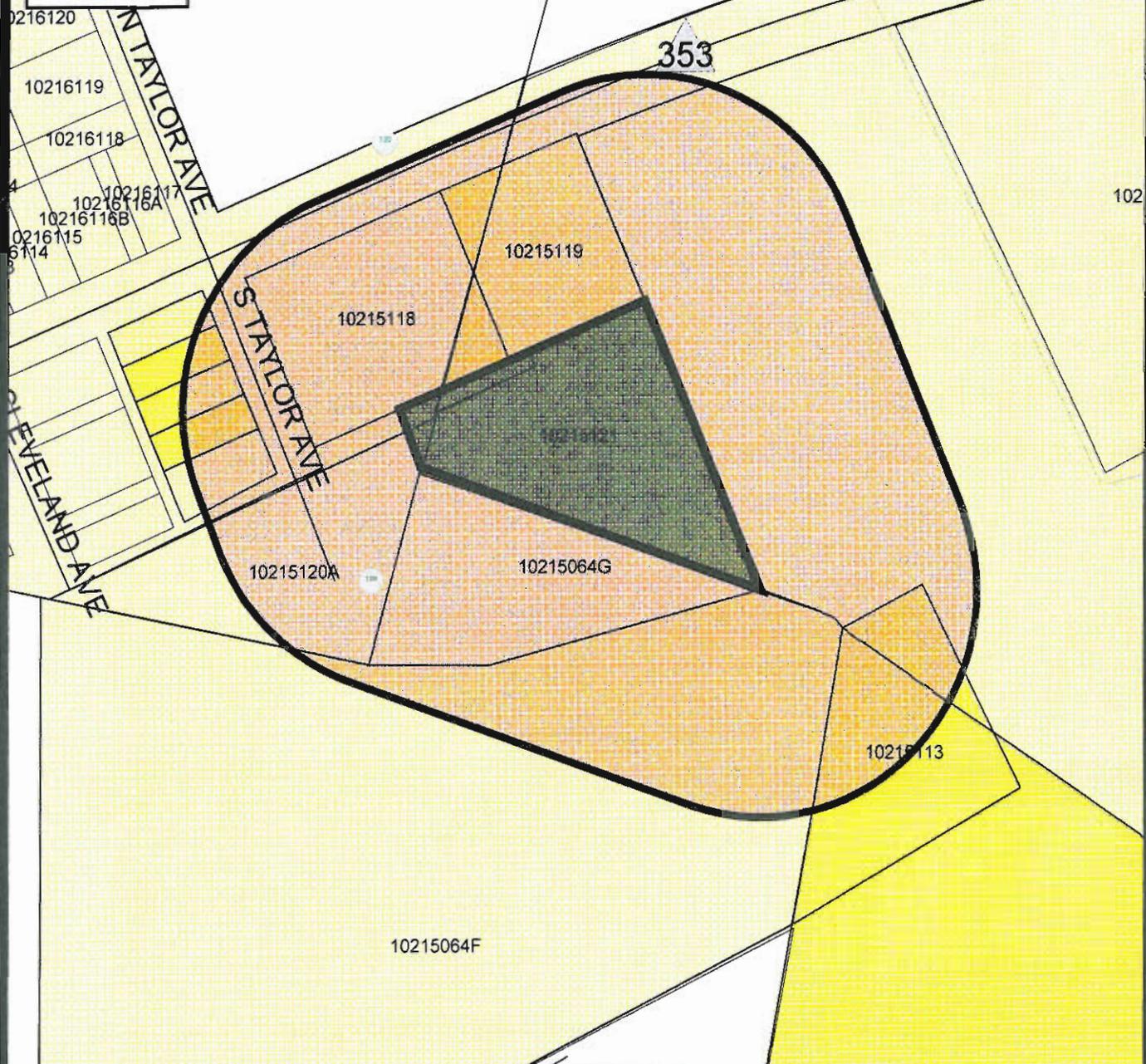
Thanks for your attention to this matter,

Bradford Finn

01105141A

Legend

-  Incorporated Limits
-  Highlighted Features
-  Buffer
-  Current Features
-  Roads
-  Driveway
-  Parcels
-  Milepost
-  Address



SU-10-06
 Borchard
 102-15-121
 300' Buffer

This map is a product of the
 Cochise County GIS





COMMUNITY DEVELOPMENT DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

MEMORANDUM

TO: Cochise County Planning and Zoning Commission
 FROM: Michael Turisk, Planner II 
 For: Benny J. Young, P.E., Planning Director
 SUBJECT: Docket SU-10-06 (Borchard/Security Plus Self Storage of Bisbee)
 DATE: April 5, 2010 for the April 14, 2010 Commission Meeting

APPLICATION FOR A SPECIAL USE

The Applicant requests a Special Use Permit to legally establish and operate a mini-warehouse/self-storage facility ('Security Plus Self Storage of Bisbee') with accessory recreational vehicle (RV) storage on a 2.1 acre site just outside of incorporated Bisbee. The subject parcel (tax parcel id no. 102-15-121) is zoned RU-4 (Rural; minimum lot size four acres). The site is accessed south off State Route 92 via S. Taylor Rd. The property is further described as being situated in Section 28 of Township 23, Range 24 East of the G&SRB&M, in Cochise County, Arizona.

Applicant: Christopher Borchard

I. Description of Subject Parcel and Surrounding Uses

Zoning: RU-4 (Rural; minimum lot size four acres)
 Growth Area: Category B
 Plan Designation: Developing (DEV)
 Size: The subject parcel is approximately 2.1 acres
 Area Plan: Sierra Vista Sub-watershed Water Conservation Overlay Zone
 Existing Uses: Mini-warehousing/self-storage; RV and light vehicle storage
 Proposed Uses: Same

Surrounding Zoning and Uses

Relation to Subject Parcel	Zoning District	Use of Property
North	C-4 (Commercial) - City of Bisbee	Security Plus Self Storage
South	C-2; C-4 (Commercial) - City of Bisbee	auto salvage
East	RU-4	vacant
West	RU-4	storage; salvage

II. PARCEL HISTORY

1/2001; land clearing permit approved; and
 10/2009; violation for construction without a permit and placing storage containers without a permit.

III. BACKGROUND/PROJECT DESCRIPTION

The Applicant requests a Special Use Permit to legitimize a mini-storage facility and accessory RV storage. Per Section 607.48, mini-warehouses are allowed with a Special Use Permit in the Rural zoning districts. RV storage would be considered accessory to the commercial use (Section 605 of the Zoning Regulations restricts the number of RVs on a given site if the principal use of the site is residential, however).



Fig 1; View westward from the project site

Much of the property to the west is under the jurisdiction of the City of Bisbee. The property immediately north and south of the subject parcel is also under the City's jurisdiction and is zoned Commercial. The site is bounded to the north by property developed with the Applicant's existing mini-storage and U-Haul rental facility ('Security Plus Self Storage'), so this project represents an expansion of the existing 'Security Plus Self Storage' of Bisbee facility that spans two parcels (102-15-118 and 119) just to the north and under the City's jurisdiction. The subject parcel abuts the primary portion of the business, which, again, lies within the City of Bisbee in a commercial zoning district. This portion of the facility has been operational for approximately 10 years. There is an auto salvage yard abutting on the south. Beyond this property to the east is undeveloped land under Phelps Dodge ownership that is zoned RU-4. The property immediately west of the site is zoned RU-4 and has salvage yard. The City's zoning maps indicate that there is residential zoning to the west and northwest of the site, including along S. Taylor Ave., the location of the facility's primary access. The State Route 92 corridor in this area is developed with a number of commercial uses.

There are currently 35 detached Conex containers available for rent on the site, including 25 that are 160 sq.-ft. each and 10 that are 320 sq.-ft. each. There is also a dedicated parking area located at the northeastern portion of the property for long-term RV and light vehicle storage (currently, there are currently four RVs and one passenger vehicle on the site). The property takes access south off State Route 92 via improved and City-maintained S. Taylor Rd. The administrative office is located to the north and west on parcel 102-15-118, again, in the City of Bisbee, and the hours of operation would be Monday through Saturday, 8am to 5pm.

Several neighbors have communicated concerns regarding the proposed project. They include, but are not limited to (and in no particular order):

- on-site vehicular circulation;
- transient dust control;
- drainage control
- exterior lighting;
- transient refuse; and
- compliance with other site development standards

Regarding site development standards, the applicant has requested several modifications and waivers. Furthermore, the subject property is non-conforming with regard to its RU-4 zoning designation, as it is approximately 2.1 acres. A more detailed analysis of the various site development standards is provided in Section F, below.

IV. ANALYSIS OF IMPACTS - COMPLIANCE WITH SPECIAL USE FACTORS (SECTION 1716.02)

Section 1716.02 of the Zoning Regulations provides a list of 10 criteria with which to evaluate Special Use applications. These are considered factors in determining whether to approve a Special Use Permit, as well as to determine what conditions and/or modifications may be needed. Nine of the 10 criteria apply to this request. The project complies with six factors, complies with conditions with one factor, partially complies with one factor and does not comply with one factor.

A. Compliance with Duly Adopted Plans: Complies

Although the subject property is not located within an area plan, it is subject to the policies of the County Comprehensive Plan. The project site lies in a Category B Growth Area. These are areas that exhibit moderate levels of residential growth typically on one-acre lots or smaller (although larger lots are often found at the periphery of these areas) and have evidence of commercial growth. Category B Growth Areas serve as a transition between urban growth and rural areas and typically have adequate infrastructure, including water services, improved streets that can support limited commercial development and adequate drainage to accommodate medium- to high-density development. Furthermore, the Comprehensive Plan designates this area of the County as Developing (DEV). These are areas with scattered, mixed residential, business or industrial and agriculture-related uses. Furthermore, these areas ultimately will accommodate future growth as the more populated areas attain build-out. The property lies within the bounds of the Sierra Vista Sub-watershed Water Conservation Overlay Zone, however, the proposed storage uses would consume little or no water.

B. Compliance with the Zoning District Purpose Statement: Partially Complies

The project would partially comply with the purposes of the RU zoning districts. The RU Districts are established to achieve the following:

RU (Rural) zoning districts are established to achieve the following purposes:

601.01 To preserve the character of areas designated as "Rural" in the Cochise County Comprehensive Plan;

601.02 To encourage those types of non-residential and non-agricultural activities which serve local needs or provide a service and are compatible with rural living;

601.03 To preserve the agricultural character of those portions of the county capable of resource production;

601.04 To provide space for people, minimize traffic congestion, and preserve the existing rural environment of unincorporated areas of the county situated outside of existing communities;

601.05 To provide recreational support services that are compatible with rural living;

601.06 To protect the quality of the natural environment as it relates to safeguarding the health, safety and welfare of the people in Cochise County and;

601.07 To allow consideration of some more intense non-residential uses as special uses that are inappropriate in more densely populated urban/suburban areas that may under some circumstances be appropriate in rural areas if designed to be sensitive to the general character of rural districts and natural environment and harmonious and in scale with existing development near the proposed site and in conformance with Section 601.06.

The proposed self-storage facility would provide a convenient service to the local community. The performance characteristics will be compatible with other uses in the area as a number of commercial facilities exist in harmony. Although the proposed project would not generate significant daily traffic counts, the project would be a commercial use nonetheless and would generate low-level non-residential traffic. However, by virtue of being a commercial project, it does not fully harmonize with the overall spirit or intent of the RU Districts noted above.

C. Development Along Major Streets: Complies

This factor examines the number of additional access points that a project would create along major County roads. The project site is located off State Route 92, a paved and ADOT-maintained highway. There is a gated and locked access point off State Route 92 that appears to be used infrequently, if at all. The primary access point, however, is off S. Taylor Rd., an improved road maintained by the City of Bisbee. Both access points are outside the County's jurisdiction and control. There is concern that the primary access off S. Taylor Ave. is only approximately 38-feet from State Route 92 (50-feet is the minimum County standard) and thus, may create a traffic hazard. However, this access driveway has been used for many years and the City indicated no concern about this facet of the project.

D. Traffic Circulation Factors: Complies

Primary access to the site is via an existing driveway from S. Taylor Ave. in the City of Bisbee. There is an ADOT driveway south of State Route 92. To access the subject parcel one must travel through the two parcels in the City. However, the access point at State Route 92 is gated and locked. However, the internal access driveway on the subject parcel is not the minimum 24-feet wide required by the County Zoning Regulations for two-way commercial driveways. The Applicants have requested a Modification of this site development standard to allow for the existing width (approximately 23-feet). Staff supports the request for this Modification, as there is adequate width to accommodate RVs. Staff does not anticipate that a mini-warehouse/self-storage facility at this site would generate significant additional traffic.

E. Adequate Services and Infrastructure: Complies

The San Jose Fire District provides emergency services. There is no well or septic system serving the site the site and SSVEC provides power.

F. Site Development Standards: Does Not Comply

The purpose of site development standards is to protect surrounding properties from adverse impacts of a proposed use. Although Section 1801 indicates that all uses in all zoning districts must comply with minimum site development standards, the Zoning Regulations allows for flexibility if it were determined that modifying or waiving particular site development standards would not compromise health, safety and welfare.

Minimum Site Area: Does Not Comply

The subject property is zoned RU-4 (Rural; minimum lot size 4 acres), but the site area is only approximately 2.1 acres, so it is non-conforming as to minimum site area. Section 2003 (*Exemptions, Exceptions and Nonconformances*) of the Zoning Regulations indicates that:

Any lot or parcel of record having less site area than required for the zoning district in which it is located which lawfully existed either prior to January 1, 1975, or which was rendered nonconforming as a result of subsequent amendments to these regulations may be developed provided the developer complies with all applicable site development standards of these regulations.

The subject parcel was created after January 1, 1975, so it is not considered legal, non-conforming. However, Section 2003 also indicates that:

Any contiguous nonconforming lots or parcels which come under single ownership are considered combined and subject to all provisions of these Zoning Regulations if:

- 1. The combined parcels have been assessed and taxed as a single parcel;*
- 2. The owner of the lots has combined the lots in any manner for purposes of building or use permit approval; or*
- 3. There is other evidence showing an intent to combine or use more than one lot as a single parcel*

Since this proposed project is an extension of existing and similar activities, this is strong evidence that the intent is to use more than one lot as a single parcel; thus, the proposed project can be approved through the Special Use Permit process, despite non-compliance with the minimum site area requirements for the RU-4 districts.

Maximum Height: Complies

The maximum height allowed in the RU zoning districts is 30-feet above grade. None of the storage containers would violate this standard.

Setbacks: Does Not Comply

The minimum setback for all structures and uses in the RU zoning districts is 40-feet for Special Uses and 20-feet from road travel ways. The storage containers are not affixed to the ground and are approximately 3.5-feet from the south and north property line. Furthermore, the RV/vehicle storage area is within the minimum setback area along the north property boundary and possible the east boundary. The site plan indicates that the storage containers and at least nine RV spaces would be within the setback area. The Applicant has requested a Modification from the minimum setback requirement to allow the containers and parking area to remain 'as is.' Staff does not support this request along the east, south and west property lines but rather, would support a modification to allow structures and parking areas to be a minimum of 20-feet from the east, south and west property lines (20-feet is the minimum setback requirement for *permitted* uses in the RU zoning districts). This 20-foot setback would also act as a travel lane for fire suppression vehicles. Staff supports the request to keep the storage containers and parking areas in place along the north boundary because the Applicant owns the two abutting parcels.

Maximum Site Coverage: Complies

The maximum site coverage in the RU zoning districts is 25 per cent. The parcel is approximately 2.1 acres. There are 25 containers that are 160 sq.-ft. each and 10 containers that are 320 sq.-ft. each. Thus, the current footprint of the storage containers equals 7,200 sq.-ft. (4,000 sq.-ft. + 3,200 sq.-ft. = 7,200 sq.-ft.), so coverage calculates to 7.9 per cent (7,200 sq.-ft. of 91,476 sq.-ft. [2.1 acres] = 7.9% [RVs and other vehicles on site are not considered in site coverage calculation as they are not positioned upon impervious surfaces.]

Distance Between Buildings: Not Applicable

Per the County's Commercial Permit Coordinator, the project would be reviewed as a whole, not on an individual container-by-container basis (they are not deemed 'structures'), so the distance between individual storage containers would not be considered at the time of commercial permit review.

Screening: Not Applicable

The subject property is within a Category B Growth Area. Regarding screening, Section 604.06 of the Zoning Regulations states:

In Category A, B and C Growth Areas and Category D areas designated Rural-Residential, whenever a non-residential use abuts a residential zoning district or is separated there from by an alley, the developed area of the non-residential site shall be screened with a 6 foot high solid screen...

The subject parcel does not abut a residential zoning district (the Rural districts are not considered residential), so this site development standard is not applicable.

Access: Complies

Primary access to the site is via S. Taylor Rd. an improved and City-maintained road, eastward across parcel 102-15-118 and south through an approximately 23-foot wide cut in a solid screen wall which separates the subject parcel. This 'cut' essentially serves as an on-site driveway to access the site. As was mentioned, the Applicant has requested a Modification from Section 1804.06F3 which requires two-way driveways be a minimum of 24-feet wide. Staff supports the Modification request because traffic generated by the use would be low and internal speeds would be low and thus would not compromise circulation and safety on- or off-site.

Landscaping: Does Not Comply

The subject parcel is within a Category B Growth Area, and thus is subject to landscaping requirements. Section 1806.02B requires a minimum of five per cent of the total developed area of a site be landscaped. Landscaping shall be integrated into the developed area and shall include a minimum five-foot wide strip along the abutting street(s). The Applicant has requested a waiver of this landscaping requirement. Staff supports this waiver because the subject parcel does not abut street frontage and the other two parcels owned by the Applicant have landscaping along the State Route 92 frontage.

Outdoor Storage: Does Not Comply

See Outdoor Storage Area Improvements on page 7.

Off-street Parking: Complies

Sufficient and compliant parking has been provided adjacent to the administrative office on Parcel 102-15-118, which is under the City of Bisbee's jurisdiction. However, at minimum, 24-foot wide internal 'driveways' shall be maintained in front of each row of storage containers to allow adequate parking space and maneuverability. Furthermore, the County Zoning Regulations require all driveways, parking and loading areas in Category B Areas to be improved with modified pavement or an equivalent or better. The entire subject parcel is native dirt surface with *some* compacted AB. The Applicants have requested a Modification of this site development standard to allow for all parking, driveway and loading areas to remain 'as is', the rationale being that traffic volume and internal speeds would be low and would not generate significant or noticeable transient dust. However, staff does not support the modification request because a permit recommendation to apply compacted AB on the site was not fulfilled in 2001 and neighbors have complained about off-site project-generated dust.

Signs: Not Applicable

No signage is proposed as part of this project.

Off-Street Loading Requirements: Not Applicable

Section 1804.10 states that for every use, building, or part thereof, erected or enlarged after the effective date of the Zoning Regulations, which is occupied or to be occupied by a use requiring receipt or distribution of materials or merchandise by motor truck, there shall be provided and maintained on the same site as the building or use, adequate off-street loading space meeting the minimum requirements hereinafter specified or at the discretion of the Zoning Inspector. Loading shall be in addition to the requirements for minimum parking area. Although customers with light pickups and trailers, as well as RVs would visit the site, the use does not require receipt or distribution of materials by tractor-trailers and/or other large haulers.

Outdoor Lighting: Not Applicable

The Applicant has indicated in correspondence dated 25 February 2010 that exterior lighting would not be installed on the site, that the site would remain 'as is.' However, if the Applicant chooses to install exterior lighting, it must comply with the County's Light Pollution Code. If exterior lighting is to be installed, the site plan must be revised to depict the proposed lighting and information provided to staff regarding selected lighting fixtures in order to ensure conformance with the lighting requirements of the Code.

Outdoor Storage Area Improvements: Does Not Comply

Section 1804.08 states that areas of a site reserved or used for the outdoor storage and display of vehicles, materials or equipment, shall be improved with at least a dust-free, gravel surface, or with an equivalent or better surface approved by the County Zoning Inspector. The Applicant has requested a modification to allow for the native dirt and gravel surface, the justification being that the use generates little traffic. However, staff does not support this modification and recommends compacted AB surface to minimize transient dust. Neighbors have complained about transient dust generation.

Floodplain and Drainage Requirements: Complies

Section 1809 indicates that all uses shall be in compliance with all Federal, State and County floodplain requirements and regulations, including any floodplain regulations duly adopted by the Board of Supervisors and administered by the Cochise County Highway and Floodplain Department. Although there are concerns from neighbors regarding inadequate and non-compliant drainage, the Highway and Floodplain Department concluded that the subject property and uses do not generate drainage issues such as an increase in rate and volume of flow onto neighboring properties. In addition, the subject property is not within a 100-year flood zone, so a floodplain use permit would not be required.



Fig 2; View southeastward from project site

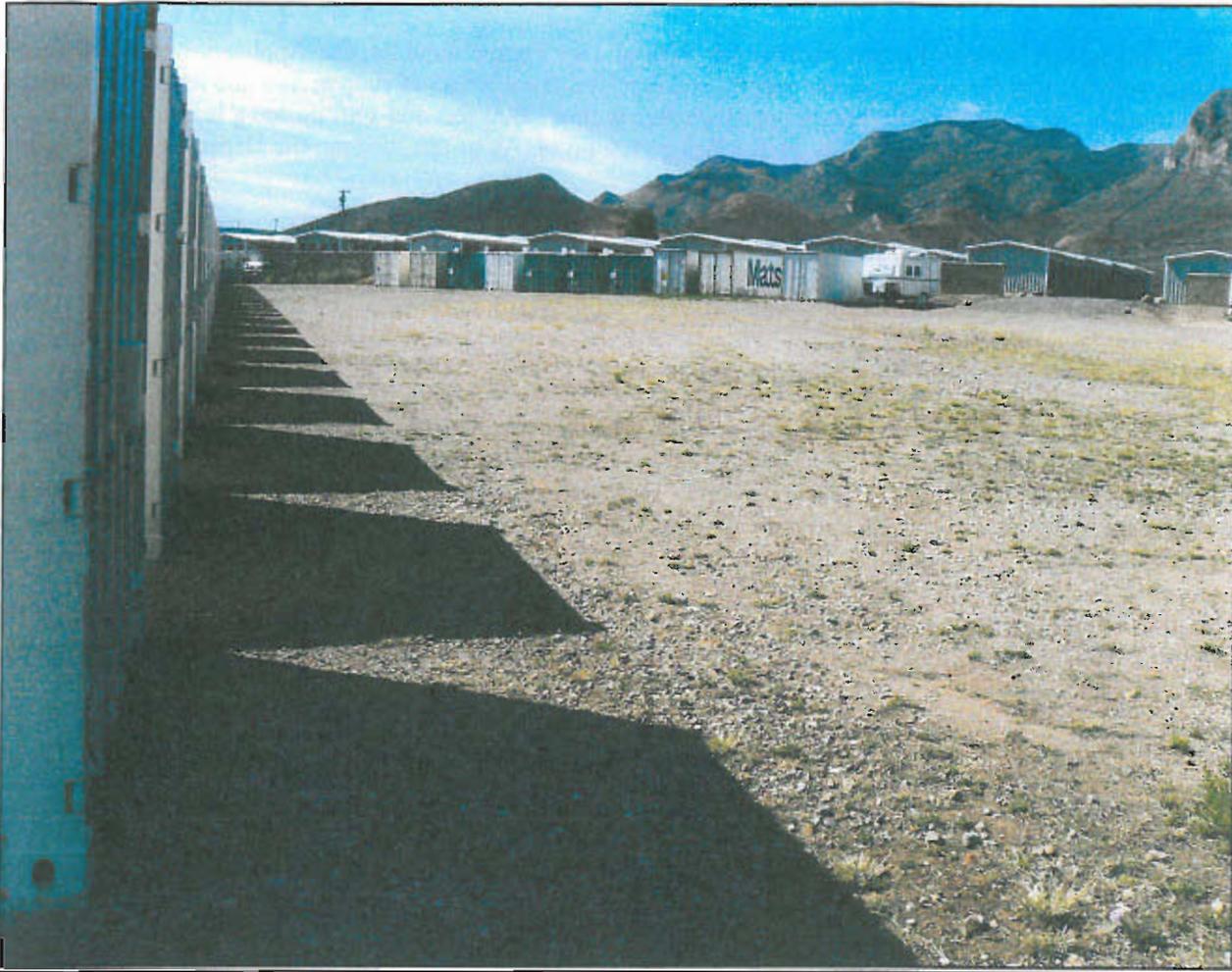


Fig 3; View northwestward from project site

Internal Circulation: Complies with Condition 3

Section 1807.05 of the Zoning Regulates requires:

the location of all buildings, structures, landscaping, access points to and from the site, and internal traffic circulation shall be arranged so that traffic congestion is avoided and vehicular and pedestrian safety is protected.

Self-storage facilities typically use much less area for circulation. The project site and proposed uses would not compromise internal traffic circulation, as there is enough site area to accommodate the uses as proposed. Furthermore, internal vehicle speeds would be very low, so vehicular and pedestrian safety would not be threatened. However, staff recommends that the Applicant maintain a minimum 24-foot wide driveway/parking area in front of each row of storage containers to ensure adequate, safe internal circulation.

Sewage Disposal and Water Requirements: Complies

Section 1808 requires that all uses shall be in compliance with all statutes and regulations of the State, State agencies, the County, and County agencies, including the County Health and Social Services Department, governing sewage disposal and water systems. If approved, the Applicant would not install a septic system or other waste treatment mechanism. The County's Environmental Health Director responded with no concerns regarding sewage and/or water requirements.

G. Public Input: Complies

As part of the compulsory Citizen Review process for Special Use Permit requests, the Applicants mailed letters to property owners within 1,000 feet of the subject parcels and received three letters of support and one letter of opposition. The Department mailed notices to neighboring property owners within 1,000 feet and staff posted a legal notice of public hearing and published a legal notice in the *San Pedro Valley News-Sun*. As of this writing, the Department has received two letters in opposition to this Special Use Permit request.

H. Hazardous Materials: Not Applicable

The proposed use would not generate hazardous materials, nor would hazardous materials be stored on site.

I. Off-Site Impacts: Complies with Conditions 2, 3 and 4

As indicated, there are concerns from several neighbors about activities related to the self-storage and RV storage facility generating unacceptable off-site transient dust. The clearing permit issued in 2001 indicated that the former owner would apply a compacted AB surface to help in dust suppression. However, apparently this was never completed. The current owner and Applicant has requested a modification to allow the existing native surface. Staff does not support this request, as it is reasonable to require a surface treatment that would reduce transient dust. The regulations require a two-inch gravel surface, but compacted AB would suffice in this situation. There is no indication on the site plan as to the proposed location of any dumpster or other waste storage facility on the subject parcel. However, there is at least one dumpster on the Applicant's property to the north. If the applicant utilizes a dumpster on the project site, the location must be indicated on a revised site plan.

J. Water Conservation: Complies

The subject property is within the bounds of the Sierra Vista Sub-watershed, so all new construction would be required to incorporate water conservation measures. However, water use would be negligible.

VI. SUMMARY AND CONCLUSION

The Applicant requests a Special Use Permit to legitimize and legally establish a mini-warehousing/storage facility and accessory RV storage on a 2-acre site abutting the City of Bisbee. There are currently 35 detached Conex containers available for rent on the site, including 25 that are 160 sq.-ft. each and 10 that are 320 sq.-ft. each. There is also a dedicated parking area at the northeastern portion of the property for long-term RV and light vehicle storage, which currently holds four RVs and one passenger vehicle on the site. The site takes access south off State Route 92 via improved and City-maintained S. Taylor Rd. The project is an expansion of the existing 'Security Plus Self Storage' facility which spans two parcels (102-15-118 and 119) abutting to the north and under the City's jurisdiction. There is concern from several neighbors about transient dust, drainage and overall compliance with site development standards. However, the recommended conditions of approval would help to ensure that the Applicant addresses any impacts associated with the non-residential use. Despite the non-residential use and the potential for the activities to generate impacts beyond the bounds of the subject property, off-site impacts from noise and traffic would be minimal. The proposed project at this location would be compatible with existing uses on abutting sites in terms of use and physical development features and would serve local needs. Furthermore, it is an appropriate use given that the project represents an expansion of the existing 'Security Plus Self Storage' facility adjacent to the site.

Factors in Favor

1. The project would not generate significant noise or traffic impacts;
2. The project site is an area of the City of Bisbee and County with a number of commercial activities;
3. The project is considered in harmony with the character of the surrounding community despite being commercial in nature;
4. The project is an expansion of a use in existence for approximately 10 years; and
5. To date, the Applicant has received three letters of support for the project.

Factors Against

1. Four modifications of site development standards are requested;
2. The project has the potential to create off-site dust impacts unless mitigated; and
3. To date, the Applicant has received one letter of opposition. The Department has received two letters of opposition. Protestors are concerned about compliance with a host of site development standards, particularly those related to transient dust control and drainage.

VII. RECOMMENDATION

Based on the factors in favor of approval staff recommends **conditional approval** of this Special Use request, with the following conditions:

1. Within thirty (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 submit and obtain a building/use permit for the project within 12 months of approval, including a completed joint permit application. The building/use permit shall include a site plan in conformance with all applicable site development standards (except those modified or waived by the Commission) and with Section 1705 of the Zoning Regulations, the completed Special Use Permit questionnaire, 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. No non-vehicular storage shall be permitted outside of the storage units;
3. The Applicant shall establish and maintain a minimum 24-foot driveway/parking area in front of each row of storage containers to ensure adequate, safe internal circulation;
4. The Applicant shall apply compacted AB surface treatment on the entire site to suppress transient dust;
5. It is the Applicants' 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; and
6. Any changes to the approved Special Use shall be subject to review by the Planning Department and may require additional modification and approval by the Planning and Zoning Commission.

If approved, Staff recommends that the Commission approve the following Site Development Standard Modifications and Waivers:

1. Modification from Section 604.03, which requires 40-foot minimum setbacks for Special Uses in the RU districts. However, staff recommends a minimum of 20-feet along the east, south and west property boundaries. Staff recommends that the current setback along the north property boundary be maintained;
2. Modification from Section 1804.06F3 which requires two-way driveways to be a minimum of 24-feet in width; modifying this site development standard would allow for the *existing* driveway on the subject parcel to remain at approximately 23-feet in width;
3. Modification from Section 1804.07(C) which requires parking and loading area and all driveways for sites within Category B Areas be paved with double bituminous surface treatment (modified pavement), or an equivalent or better treatment to allow for compacted AB treatment; and
4. Waiver from Section 1806.02B, which requires all uses in Category B Areas, be landscaped with a minimum five-foot wide strip along the abutting street(s).

Sample Motion (in the affirmative): *Mr. Chair, I move to approve Docket SU-10-06, based on the Factors in Favor of approval as the Findings of Fact, with the conditions of approval and the modifications recommended in the staff report.*

IX. ATTACHMENTS

- A. Special Use Application
- B. Site Plan
- C. Zoning Map
- D. Aerial Photo
- E. Applicant's Request for Modifications and Waivers
- F. Staff Comments
- G. Citizen Review Letter
- H. Public Comment
- I. James and Linda Weiland's Informational Packet



COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Susan Buchan, Director

COCHISE COUNTY PLANNING DEPARTMENT COMMERCIAL USE/BUILDING PERMIT/SPECIAL USE PERMIT QUESTIONNAIRE (TO BE PRINTED IN INK OR TYPED)

TAX PARCEL NUMBER: 102-15-121

APPLICANT: Christopher Borchard (Security Plus Self Storage of Bisbee)

MAILING ADDRESS: 610 E Bell rd #2-338 Phoenix, AZ 85022

CONTACT TELEPHONE NUMBER: 480 946-3535

PROPERTY OWNER (IF OTHER THAN APPLICANT): _____

ADDRESS: _____

DATE SUBMITTED: 2/26/10

Special Use Permit Public Hearing Fee (if applicable)	<u>check # 10908</u>	\$ <u>300 -</u>
Building/Use Permit Fee		\$ _____
Total paid	<u>receipt # 3795</u>	\$ <u>300 -</u>
	<u>-mm</u>	

PART ONE - REQUIRED SUBMITTALS

1. Cochise County Joint Application (attached).
2. Questionnaire with all questions completely answered (attached).
3. A minimum of (6) copies of a site plan drawn to scale and completed with all the information requested on the attached Sample Site Plan and list of Non-residential Site Plan Requirements. (Please note that **nine (9) copies will be required for projects occurring inside the Building Code enforcement area. In addition, if the site plan is larger than 11 by 17 inches, please provide one reduced copy.**)
4. Proof of ownership/agent. If the applicant is not the property owner, provide a notarized letter from the property owner stating authorization of the Commercial Building/Use/Special Use Application.
5. Citizen Review Report, if special use.

COCHISE COUNTY
PLANNING DEPARTMENT

6. Proof of Valid Commercial Contractor's License. (Note: any building used by the public and/or employees must be built by a Commercial Contractor licensed in the State of Arizona.)
7. Hazardous or Polluting Materials Questionnaire, if applicable.

OTHER ATTACHMENTS THAT MAY BE REQUIRED DEPENDING ON THE SCOPE OF THE PROJECT

1. Construction Plans (possibly stamped by a licensed Engineer or Architect)
2. Off-site Improvement Plans
3. Soils Engineering Report
4. Landscape Plan
5. Hydrology/Hydraulic Report
6. Sierra Vista Sub-Watershed Water Conservation Overlay Zone Permit Checklist
7. Traffic Impact Analysis (TIA): **Where existing demonstrable traffic problems have already been identified such as high number of accidents, substandard road design or surface, or the road is near or over capacity, the applicant may be required to submit additional information on a TIA.**
8. Material Safety Data Sheets
9. Extremely Hazardous Materials Tier Two Reports
10. Detailed Inventory of Hazardous or Polluting Materials along with a Contingency Plan for spills or releases

The Commercial Permit Coordinator/Planner will advise you as soon as possible if and when any of the above attachments are required.

PART TWO - QUESTIONNAIRE

In the following sections, thoroughly describe the proposed use that you are requesting. **Attach separate pages if the lines provided are not adequate for your response.** Answer each question as completely as possible to avoid confusion once the permit is issued.

SECTION A - General Description (Use separate sheets as needed)

1. What is the existing use of the property? Self Storage

2. What is the proposed use or improvement? Self Storage - no changes
35 shipping containers for rent
each 48 feet wide and 20 feet depth

3. Describe all activities that will occur as part of the proposed use. In your estimation, what impacts do you think these activities will have on neighboring properties? NO CHANGES TO
EXISTING ACTIVITIES

4. Describe all intermediate and final products/services that will be produced/offered/sold.

None

5. What materials will be used to construct the building(s)? (Note, if an existing building(s), please list the construction type(s), i.e., factory built building, wood, block, metal)

N/A

6. Will the project be constructed/completed within one year or phased? One Year _____
Phased ___ if phased, describe the phases and depict on the site plan.

Already existing on site

7. Provide the following information (when applicable):

A. Days and hours of operation: Days: MON-SAT Hours (from 8 AM to 5 PM)

B. Number of employees: Initially: 2 Future: _____
Number per shift Seasonal changes None

C. Total average daily traffic generated:

(1) How many vehicles will be entering and leaving the site.
Varies

(2) Total trucks (e.g., by type, number of wheels, or weight)

(3) Estimate which direction(s) and on which road(s) the traffic will travel from the site?

Will pass thru parcel 102-15-118 (Security Plus Self Storage)
as it currently does - no traffic from street to parcel 102-15-121

(4) If more than one direction, estimate the percentage that travel in each direction

(5) At what time of day, day of week and season (if applicable) is traffic the heaviest

8 am - 5 pm (during operating hours)

102-15-121

D. Circle whether you will be on public water system or private well. If private well, show the location on the site plan.

Estimated total gallons of water used: per day _____ per year _____

E. Will you use a septic system? Yes ___ No If yes, is the septic tank system existing? Yes ___ No ___
 Show the septic tank, leach field and 100% expansion area on the site plan.

F. Does your parcel have permanent legal access*? Yes No ___
 D. If no, what steps are you taking to obtain such access?

*Section 1807.02A of the Cochise County Zoning Regulations stipulates that no building permit for a non-residential use shall be issued unless a site has permanent and direct access to a publicly maintained street or street where a private maintenance agreement is in place. Said access shall be not less than twenty (20) feet wide throughout its entire length and shall adjoin the site for a minimum distance of twenty (20) feet.

Does your parcel have access from a (check one):
 _____ private road or easement**
 County-maintained road
 _____ State Highway

**If access is from a private road or easement provide documentation of your right to use this road or easement and a private maintenance agreement.

G. For Special Uses only - provide deed restrictions that apply to this parcel if any.
 Attached _____ NA

H. Identify how the following services will be provided:

Service	Utility Company/Service Provider	Provisions to be made
Water	/	/
Sewer/Septic	none	none
Electricity	/	/
Natural Gas	/	/
Telephone	/	/
Fire Protection	/	/

SECTION B - Outdoors Activities/Off-site Impacts

1. Describe any activities that will occur outdoors.

Tenant loading or unloading items in & out of their
 units

2. Will outdoor storage of equipment, materials or products be needed? Yes ___ No if yes, show the location on the site plan. Describe any measures to be taken to screen this storage from neighboring properties. _____
3. Will any noise be produced that can be heard on neighboring properties? Yes ___ No if yes: describe the level and duration of this noise. What measures are you proposing to prevent this noise from being heard on neighboring properties? _____

4. Will any vibrations be produced that can be felt on neighboring properties? Yes ___ No if yes; describe the level and duration of vibrations. What measures will be taken to prevent vibrations from impacting neighboring properties? _____

5. Will odors be created? Yes ___ No If yes, what measures will be taken to prevent these odors from escaping onto neighboring properties? _____

6. Will any activities attract pests, such as flies? Yes ___ No If yes, what measures will be taken to prevent a nuisance on neighboring properties?

7. Will outdoor lighting be used? Yes ___ No If yes, show the location(s) on the site plan. Indicate how neighboring properties and roadways will be shielded from light spillover. Please provide manufacturer's specifications.
8. Do signs presently exist on the property? Yes ___ No If yes, please indicate type (wall, freestanding, etc.) and square footage for each sign and show location on the site plan.
 A. _____ B. _____ C. _____ D. _____
9. Will any new signs be erected on site? Yes ___ No If yes, show the location(s) on the site plan. Also, draw a sketch of the sign to scale, show the copy that will go on the sign and **FILL OUT A SIGN PERMIT APPLICATION** (attached).

10. Show on-site drainage flow on the site plan. Will drainage patterns on site be changed?

Yes ___ No X

If yes, will storm water be directed into the public right-of-way? Yes ___ No ___

Will washes be improved with culverts, bank protection, crossings or other means?

Yes ___ No X

If yes to any of these questions, describe and/or show on the site plan.

11. What surface will be used for driveways, parking and loading areas? (i.e., none, crushed aggregate, chipseal, asphalt, other)

none

12. Show dimensions of parking and loading areas, width of driveway and exact location of these areas on the site plan. (See site plan requirements checklist.)

13. Will you be performing any off-site construction (e.g., access aprons, driveways, and culverts)?

Yes ___ No X If yes, show details on the site plan. **Note: The County may require off-site improvements reasonably related to the impacts of the use such as road or drainage improvements.**

SECTION C - Water Conservation and Land Clearing

1. If the developed portion of the site is one acre or larger, specific measures to conserve water on-site must be addressed. Specifically, design features that will be incorporated into the development to reduce water use, provide for detention and conserve and enhance natural recharge areas must be described. The Planning Department has prepared a *Water Wise Development Guide* to assist applicants. This guide is available upon request. If the site one acre or larger, what specific water conservation measures are proposed? Describe here or show on the site plan submitted with this application.

N/A

2. How many acres will be cleared? N/A

If more than one acre is to be cleared describe the proposed dust and erosion control measures to be used (Show on site plan if appropriate.)

102-15-121

SECTION D - Hazardous or Polluting Materials

Does the proposed use involve hazardous materials? These can include paint, solvents, chemicals and chemicals wastes, oil, pesticides, herbicides, fertilizers, radioactive materials, or biological agents. Engine repair, dry cleaning, manufacturing and all uses that commonly use such substances in the County's experience require completion of the attachment.

No X Yes _____ If yes, complete the attached Hazardous Materials Attachment. Engine repair, manufacturing and all uses that commonly use such substances in the County's experience also require completion of the attachment.

Applications that involve hazardous or polluting materials may take a longer than normal processing time due to the need for additional research concerning the materials' impacts. The Arizona Department of Environmental Quality (ADEQ) Compliance Assistance Program can address questions about Hazardous Materials (1-800-234-5677, ext. 4333.)

SECTION E - Applicant's Statement

I hereby certify that I am the owner or duly authorized owner's agent and all information in this questionnaire, in the Joint Permit Application and on the site plan is accurate. I understand that if any information is false, it may be grounds for revocation of the Commercial Use/ Building/ Special Use Permit.

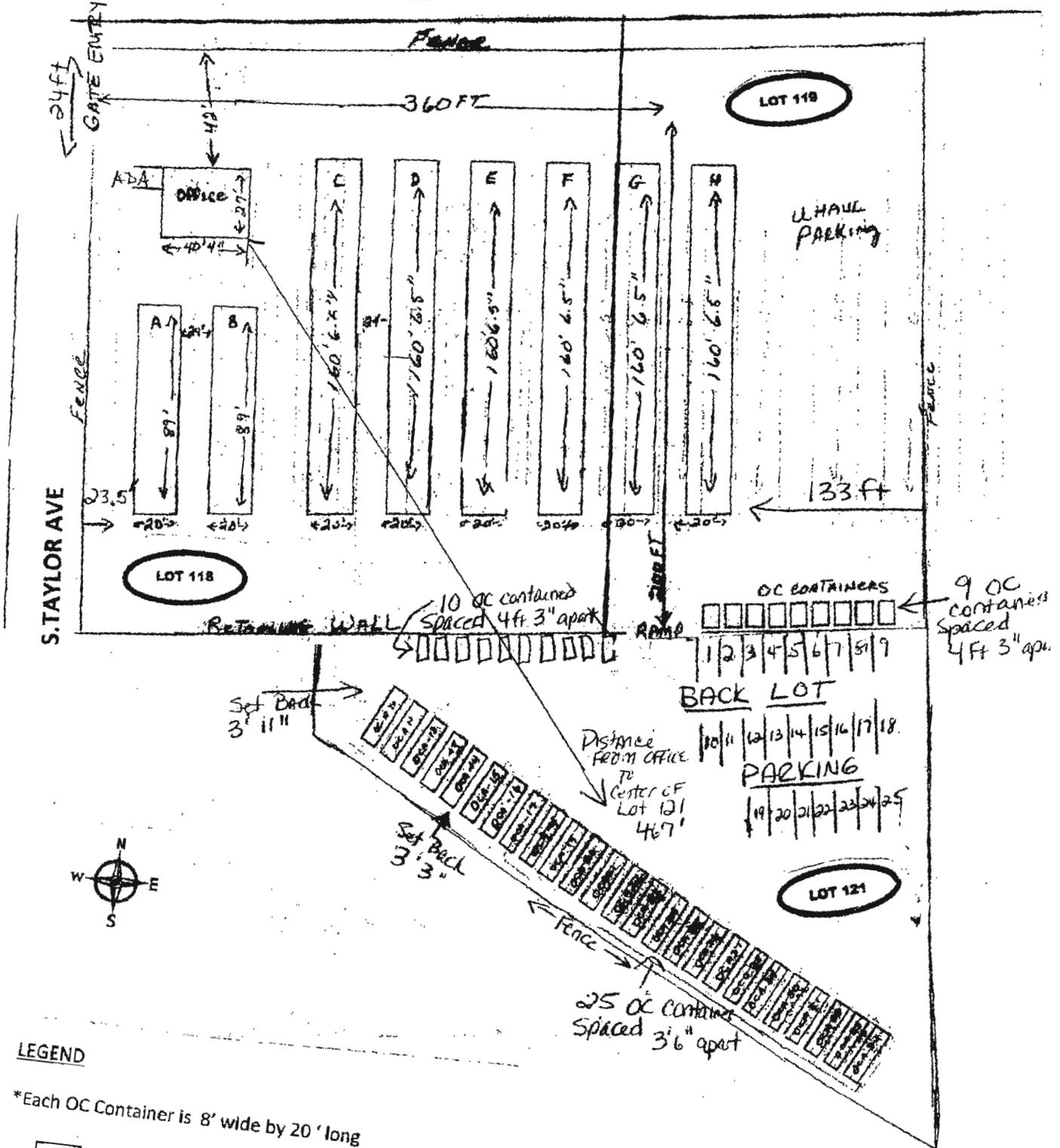
Applicant's Signature _____

Date signed _____

2/06/10

102-15-121

HWY 92



LEGEND

*Each OC Container is 8' wide by 20' long

□ = oc container

Lettered Boxes A through H = Permanent Storage Buildings

ADA- Proposed Disabled Parking

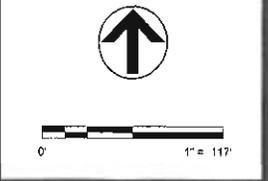
Gate Entry Driveway- 24 ft Wide



C-2, self-storage

102-15-121

This map is a product of the Cochise County GIS





SUBJECT
PARCEL



**City of Bisbee
Zoning Districts**

Residential Districts:

- R-1 Residential Zone
- R-2 Residential Zone
- R-3 Residential Zone
- RM - Manufactured/Mobile Home Zone

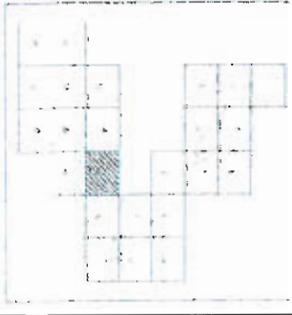
Commercial Districts:

- C-1 Commercial Zone
- C-2 Commercial Zone
- C-3 Commercial Zone
- C-4 Commercial Zone
- CM-1 Commercial Mixed Zone
- CM-2 Commercial Mixed Zone
- MA-1 Manufacturing Zone

Manufacturing Districts:

- MA-1 Manufacturing Zone

CITY ZONING MAP
 VAP ADOPTED XXXXXXXX
 RESOLUTION No. XXXXXX
 Page Number: 15
 INDEX SHEET



Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, Arizona 85603
Attn; Mike Turisk

Dear Mike,

Pursuant to our request seeking a Special Use Permit for our parcel #102-15-121, we are hereby requesting waivers for modifications to the following development requirements:

1. Exception to the minimum setback requirement: we are out of compliance on the north & south property lines. The north property line runs along the other 2 lots that we own (Parcel #102-15-118 & 102-15-119) and does not have any effect at all on surrounding properties. As far as the setback for the south property line, moving the containers to comply with the 40' requirement would be impossible due to space limitations and would also cause more hardship on the neighboring properties as it would require heavy equipment, noise and dust during the moving process. The containers have been on the site in the same spot for over 3 years without any problems.
2. We are requesting a waiver to the minimum parking requirement and to allow for use of the existing native surface for two reasons. First, the traffic on the lot is minimal and would result in very little generation of dust. Second, the native surface is more able to absorb precipitation and would be better for the surrounding lots as far as drainage. We believe that adding pavement would cause drainage issues for the neighboring property as it would not allow for absorption. Our back parking area, located on the northeast corner of the lot, will hold a maximum of 25 parking spaces.
3. Exception to the minimum landscaping requirements: once again we feel making these changes would only cause more inconvenience for the neighboring properties. Our goal is to keep the property the way it has been since we purchased it in 2007 but to have the proper permitting.
4. Requesting a waiver for the 24' width on the driveway/gate located on the parcel in question. This gate is typically kept closed and locked as access is mainly through the front gate/driveway which meets the 24' min. width requirement. The width of the back gate/driveway is just shy of the 24' requirement but still allows for RVs to safely ingress & egress if necessary.

Thank you for considering our requests. As we've said previously, we have no desire to make changes to the existing layout of the business or to cause any undue hardship or inconvenience to our neighbors. Our only wish is to be in compliance and legally permit the lot in question with no disruption to our neighbors or to our business.

Sincerely,

Christopher Borchard

Owner/President

Security Plus Self Storage of Bisbee

Turisk, Mike

From: pnahmias@cox.net
Sent: Tuesday, April 06, 2010 1:12 PM
To: Turisk, Mike
Subject: Re: Dimensions of containers along north boundary

ok, i jumped the gun, some are bigger, 10 of them are 8X40 and it's the ones that are along the property line that divides this parcel from our front parcels (so the 10 that run along the north parcel boundary of the parcel in question)

Sorry about that!

---- "Turisk wrote:

> Chris,

>

>

>

> Are the 10 OC containers along the north property boundary the same
> dimensions (8'x20') as those along the south boundary?

>

>

>

> Sincerely,

>

>

>

> Michael Turisk, Senior Planner

>

> Cochise County Planning Department

> 1415 Melody Lane, Building E

>

> Bisbee, Arizona 85603

> tel: 520.432.9240

> fax: 520.432.9278

> email: <blocked::mailto:mturisk@cochise.az.>

> <blocked::mailto:mturisk@cochise.az.gov> mturisk@cochise.az.gov

>

>

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> "Public Programs; Personal Service"

>

> www.cochise.az.gov

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>

>

> Please consider the environment before printing this e-mail

>

>

>

Apel, Mark

Panel 102-15-121

From: Dalrymple, Scott
Sent: Friday, February 16, 2001 9:17 AM
To: Apel, Mark
Subject: Nest Egg Storage

Mark,

I went out to see the property that Dean Cartwright had cleared behind his Nest Egg Storage facility here in Bisbee. The neighboring property sits lower than Mr. Cartwrights property and always has.

He has essentially complied with the permit to ensure that drainage is toward and into the wash. There was no basis for the neighbors concern that the property was sloped towards the neighbors and would cause runoff to flow onto the neighbors property. While there may be some minor drainage from one property to the other, it is no more than can usually be expected. It is completely unreasonable to for any property owner to assume that no runoff water will pass onto their property from a neighbors.

If the neighbor is concerned, they could be advised to build a small berm on their own property that would prevent runoff from entering their property.

Scott Dalrymple

Turisk, Mike

From: McGee, Michael
Sent: Tuesday, March 23, 2010 8:04 AM
To: Turisk, Mike
Subject: RE: Special Use request - Bisbee Plus Self Storage

Mike,

We have no concerns since they will not be using a septic system.

Mike

Michael McGee, RS
Environmental Health Director
Cochise County Health Dept.
mmcgee@cochise.az.gov
Benson 520-586-8206
Bisbee 520-432-9444

From: Turisk, Mike
Sent: Friday, March 12, 2010 2:59 PM
To: McGee, Michael
Subject: Special Use request - Bisbee Plus Self Storage
Importance: High

All,

Your comments are requested for a proposed Special Use Permit to legitimize the placement and rental (for storage) of 35 containers on the site of the Security Plus Self Storage of Bisbee facility located at 101 S Taylor Rd. and adjacent to the City of Bisbee. Please see the attached SUP application and site plans for additional details.

This Special Use Permit request will be considered by the Planning and Zoning Commission on Wednesday, April 14th.

Thank you in advance for your time and consideration.

Sincerely,

Michael Turisk, Senior Planner
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, Arizona 85603
tel: 520.432.9240
fax: 520.432.9278
email: mturisk@cochise.az.gov

3/23/2010

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Turisk, Mike

From: Riggs, Karen
Sent: Tuesday, March 30, 2010 3:06 PM
To: Turisk, Mike
Subject: FW: Self storage application

Mike,
Attached is Tim Mazanek's review of the applicant's request. Tim is our new engineer, I don't think you've met him yet. I've reviewed it with him and think it covers the drainage issues. Karen L gave me a copy of Scott Dalrymple's review of the same site in 2001. It independently backs up Tim's conclusions. It appears that the site is not causing increases in flow onto neighboring parcels and the issue of setback distance has no drainage ramifications. Please let me know if you need anything further.
Karen

From: Mazanek, Tim
Sent: Wednesday, March 17, 2010 2:55 PM
To: Riggs, Karen
Subject: Self storage application

Here are my thoughts on the self storage application. Let me know if I am missing something. The manager of the place said she had heard there was some complaints, but was unsure of the nature of the problems, hence the attempt to legitimize the application.

Regards,
Tim



COCHISE COUNTY
HIGHWAY AND FLOODPLAIN DEPARTMENT
MEMORANDUM



MAKING IT BETTER

Your County Questions answered:

www.cochise.az.gov

Date: 03/17/2010

To: Karen Riggs

From: Tim Mazanek

Subject: Special Use Permit Application for Security Plus Self Storage

I reviewed the application from Security Plus Self Storage for a Special Use Permit to legitimize the placement of 35 storage containers on the existing property. The applicant has requested a modification of the minimum 40-foot setback requirement so that the containers can remain at the existing 3-ft setback. The resident manager of the storage business told me that the containers have been in their present location for about 8 years. Regarding the Floodplain regulation in this matter, please consider the following:

1. The property is not within the floodplain so there is no restriction.
2. The yard area is generally very clean and orderly with no apparent drainage issues.
3. The yard is covered with compacted AB material that is somewhat impervious, but not enough to cause major runoff collection issues. Most of the yard drains to the southeast corner of the property where it flows into the natural drainage course on the east side of the property.
4. I see no adverse drainage impacts on the neighboring property to the south (Dunlap) which is being used as an auto wrecking yard.
5. The property to the west (Weiland) of the wrecking yard appears to be used for storage of used mobile equipment, old trailers, and assorted articles. Unclear if this is a business or some other industrial venture. Some water leaves the Self Storage property on the west side, drains onto the street, and enters a drainage ditch on the Weiland property. The opening of the drainage ditch shows no sign of damage or washout, but any overflow probably drains onto the driveway for the general property. There is no clearly defined infrastructure, so the water probably sheets across the property during a high volume event once the drain becomes overloaded.
6. There was no evidence of any major washouts or damage on any of the properties that I could see from the Self-storage property location or the road. Further inspection of the surrounding properties may be required to answer any specific complaint issues.

Based on my inspection, I see no Floodplain or drainage issues with the placement of the storage containers 3 feet from the property line instead of the required 40 ft.

Regards,

Tim Mazanek, Civil Engineer
Cochise County Highways and Floodplain



COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Benny J. Young, P.E., Director

MEMORANDUM

TO: Michael Turisk, County Planner II

FROM: Karen L. Lamberton, County Transportation Planner

SUBJECT: Self Storage in Bisbee: SU-10-06\Parcel #302-14-081

DATE: **March 30, 2010**

The applicant recently purchased an existing self-storage business located on three parcels; two of which are located within the City of Bisbee boundaries and the third is within the County. This Special Use request is to legitimize the use on that third parcels for placement and rental 35 storage containers. A site visit identified the additional use of storage of RV units as well as storage containers with ample space for expansion. This type of use is typically a low volume, off-peak type of travel pattern with occasional heavy truck traffic ranging between 2 to 15 percent. The county portion of this use is likely to produce about 6 to 10 trips per day based on the ITE Manual, 7th edition for Land Use 151 (mini-warehouse). The entire site includes an additional 278 storage units and the combined use on the full site has the potential of generating between 46-86 trips per day (about 23 to 43 vehicles per day/2-5 per hour).

Access is taken from an existing ADOT driveway from State Highway 92; the gate from this driveway appears to be kept locked and used intermittently. A site visit confirmed that this apron (constructed of concrete) is currently in good repair and meets the minimum ADOT standards for an access apron. Primarily access is taken from an existing driveway from S. Taylor Ave. located within the incorporated area of the City of Bisbee and not in the County's jurisdiction or control. Although it would be preferred that the driveway access be a bit further south from the state highway (at least 50 feet from the intersection is a minimum design standard for the County and the existing driveway is about 38 feet from the highway pavement) this driveway has been in place for many years and the City of Bisbee indicated that they had no concerns related to this permit request. Neither access point is located with the unincorporated Cochise County and thus is outside our jurisdiction and control.

Access to the parcel that is the subject of this request is within the site itself and exceeds a 24 foot cross-section with a gravel covered access drive to the area where the storage containers are currently stored. As an internal driveway the County would have no specific standards other than the need for two-way traffic and this access point meets or exceeds that minimum width. The parking area surface has a typical native surface with some vegetative cover and given the very low

trip generation on this portion of the site there is not a sufficient impact to require any type of paving surface. Given the size of this area an impervious surface would likely increase temperatures in the area as well as decrease water absorption, thus increasing runoff. Although dust may be an intermittent issue, the applicants may address this with a surface vegetative treatment, a light scattering of gravel or other soil stabilizers if desired.

Recommendation

Given the very low estimated trip generation that would be created by this use, and the fact that the access points are outside the County's jurisdictions, **we would have no specific transportation related conditions in regards to this permit.** The impacts of the level of trip generation of this use do not reach to an "essential nexus" for requiring any specific surfacing treatment of the parking area.

We would advise the applicants to amend their special use to include a range of storage units to include future expansion so that they are not limited to only 35 containers on this portion of the site. The site has capacity for more units and the permit application, as currently written, would imply a limit of 35 storage containers. The applicants may wish to consider the future uses of this parcel and include these future possibilities to avoid the need for a modification of this Special Use permit at a later time.

The applicants have also requested a modification of the minimum 40-foot setback requirement for the storage container placement (currently located about 3 feet from the south property line). There are no compelling transportation issues that would be impacted by granting this modification and we have no objections to the request for this modification.

The ADOT apron must be maintained in a safe and good condition. The property owner, as a new owner of this parcel (if they have not done so already), must notify ADOT of the change of ownership and advise them of the continued use of this ADOT access driveway. This process is done via an ADOT Right-of-Way permit available from the ADOT Safford District. Permit information is available on-line at: <http://www.dot.state.az.us/Highways/Districts/Safford/index.asp> or the applicant may contact Armando Membrilla, Permits Office at Safford District, at 2082 US Hwy 70, Safford, AZ 85546; or call 928.432.4915 with any questions they might have.

cc: Docket SU-10-06; ADOT

Turisk, Mike

From: Garcia, Luis
Sent: Monday, March 29, 2010 1:08 PM
To: Turisk, Mike
Subject: RE: Special Use request - Bisbee Plus Self Storage

A site inspection must be conducted to identify any life safety issues prior to the closing of the permit.

Let me know if you have any questions.

Thanks

Luis Garcia Jr., CBO
Cochise County Planning Department
Senior Plans Examiner
1415 Melody Lane
Bisbee, AZ 85603

From: Turisk, Mike
Sent: Friday, March 12, 2010 2:01 PM
Subject: Special Use request - Bisbee Plus Self Storage
Importance: High

All,

Your comments are requested for a proposed Special Use Permit to legitimize the placement and rental (for storage) of 35 containers on the site of the Security Plus Self Storage of Bisbee facility located at 101 S Taylor Rd. and adjacent to the City of Bisbee. Please see the attached SUP application and site plans for additional details.

This Special Use Permit request will be considered by the Planning and Zoning Commission on Wednesday, April 14th.

Thank you in advance for your time and consideration.

Sincerely,

Michael Turisk, Senior Planner
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, Arizona 85603
tel: 520.432.9240
fax: 520.432.9278
email: mturisk@cochise.az.gov

Turisk, Mike

From: John Charley [jcharley@cityofbisbee.com]
Sent: Thursday, April 01, 2010 8:45 AM
To: Turisk, Mike
Subject: RE: Special Use request - Bisbee Plus Self Storage

Mike,
The zoning for the property in question is C-4. The City's zoning maps and zoning code can be found on line at www.cityofbisbee.com if you ever need them. To my knowledge the City has not considered annexing the other parcel. Let me know if I can be of further assistance.

Regards,

John Charley
Community Development Director
City of Bisbee
520-432-6269
jcharley@cityofbisbee.com



From: Turisk, Mike [mailto:MTurisk@cochise.az.gov]
Sent: Wednesday, March 31, 2010 1:43 PM
To: jcharley@cityofbisbee.com
Subject: FW: Special Use request - Bisbee Plus Self Storage
Importance: High

John,

Would you tell me the zoning of parcels 102-15-118 and 119? Both are in the City and are the sites of the Security Plus Self Storage of Bisbee facility. As you're likely aware, the owner has applied for a Special Use Permit from the County for Parcel 102-15-121.

Has the City ever considered annexing Parcel 121?

Thanks in advance.

Sincerely,

Michael Turisk, Senior Planner
Cochise County Planning Department

4/1/2010

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Turisk, Mike

From: Garcia, Luis
Sent: Tuesday, April 06, 2010 11:55 AM
To: Turisk, Mike
Subject: Fire Access

To Whom It May Concern:

Fire Apparatus Access must be provided for all uses that contain structures or fire fuel. Access must be provided according to the following:

503.2.1 Dimensions. *Fire apparatus access roads shall have an un-obstructed width of not less than 20 feet....*

Let me know if you have any questions.

Thanks

Luis Garcia Jr., CBO-Senior Plans Examiner
Cochise County Community Development Department
1415 Melody Lane
Bisbee, AZ 85603
(520)432-9240
Fax (520)432-9278
lcgarcia@cochise.az.gov

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

Sample
of letter sent to
neighbors

**YOU ARE INVITED TO SUBMIT COMMENTS ON OUR REQUEST
TO CHANGE THE USE OF OUR PROPERTY**

- **Business Name; Security Plus Self Storage**
- **Location: 101 S. Taylor (Hwy 92 & S. Taylor)**
- **Description: requesting Special Use Permit for Storage Containers located on parcel #102-15-121**

These storage containers have been on the site since 2007 and were there when we purchased the business, no changes or additions are being made, we are just applying for the permit as we have recently been informed that the previous owner did not obtain one.

Your input is important to us and we look forward to hearing from you.

To ensure that your questions are answered:

Submit written comments to :

**Infinity Capital Group
610 E. Bell Rd Suite 2-338
Phoenix, AZ 85022**

Submit email comments to chris.infinity@cox.net

To speak with a company representative call: 480-946-3535



Fwd Re Citizen Review Comment Letter 02 25 10

From: chris.infinity@cox.net
Sent: Thursday, February 25, 2010 10:27 AM
To: Montana, Susana
Subject: Fwd: Re: Citizen Review Comment Letter

Hi Susana,

We are forwarding you a copy of the weilands' letter to us and our response for your records. Thank you for you return call this morning. I will be in tomorrow to submit the application & check.

Thanks,

Chris Borchard

> Date: Thu, 25 Feb 2010 11:28:17 -0500
> From: <chris.infinity@cox.net>
> To: Linda weiland <donluis85603@yahoo.com>
> Subject: Re: Citizen Review Comment Letter
> Cc: smontana@coxhise.az.gov

> Dear Mr. & Mrs. weiland,

> Thank your for your inquiry. We will be more than happy to meet with you if you feel it necessary but as it clearly states in our letter, there is no "project" or any new building of any kind. This application is solely for the purpose of permitting the storage containers that have been on the property since prior to our ownership, as we have just recently found out that the previous owner did not obtain a permit for them. No changes to anything on the parcel are being proposed, there will be no construction of any kind, no changes to the gate use, no change in hours or traffic.

> As far as the existing permanent buildings on the other parcels, as well as lighting etc., this is all part of the City of Bisbee and is already permitted and in compliance. There will be no lighting added to the parcel in question and no additional traffic flow directly into that parcel from the street.

> We hope this addresses your concerns. Please let us know if you need any further information.

> Sincerely,

> Christopher Borchard

> ---- Linda weiland <donluis85603@yahoo.com> wrote:

> > Hello, Mr. Borchard. Attached is a copy of the letter we mailed to
> > you this morning. Please let us know when we can meet with you to
> > discuss the project. Jim and Linda weiland

Turisk, Mike

From: Dennis, Keith
Sent: Friday, February 26, 2010 1:34 PM
To: Turisk, Mike
Cc: Montana, Susana
Subject: FW: Re: Citizen Review Comment Letter

Mike, I believe you will be assigned this Docket. This is a mini-storage Special Use, which used to be the "nest egg" mini warehouse off Taylor Road in San Jose, Bisbee.

There is already some contention around this Docket, which Susana and I took in today. These emails reflect this. Also, we gave the Applicant some comments on his site plan at his submittal this morning, and he is working on a revised site plan that we can feel comfortable transmitting.

If you need any further briefing on this case, let me know.

-----Original Message-----

From: chris.infinity@cox.net [mailto:chris.infinity@cox.net]
Sent: Friday, February 26, 2010 11:04 AM
To: Dennis, Keith
Subject: Fwd: Re: Citizen Review Comment Letter

> Date: Fri, 26 Feb 2010 06:25:12 -0800 (PST)
> From: Linda Weiland <donluis85603@yahoo.com>
> Subject: Re: Citizen Review Comment Letter
> To: chris.infinity@cox.net
> Cc: kdennis@cochise.az.gov
>
> Dear Mr.Borchard,
>
> Thank you for your response. We will take a look at your Special Use Permit application, and go from there. Please let us know if the project changes, or if we can be of any assistance.
>
> Sincerely, Jim and Linda Weiland
>
> --- On Thu, 2/25/10, chris.infinity@cox.net <chris.infinity@cox.net> wrote:
>
>
> From: chris.infinity@cox.net <chris.infinity@cox.net>
> Subject: Re: Citizen Review Comment Letter
> To: "Linda Weiland" <donluis85603@yahoo.com>
> Cc: smontana@cochise.az.gov
> Date: Thursday, February 25, 2010, 9:28 AM
>
>
> Dear Mr. & Mrs. Weiland,
>
> Thank your for your inquiry. We will be more than happy to meet with you if you feel it necessary but as it clearly states in our letter, there is no "project" or any new building of any kind. This application is soley for the purpose of permitting the storage containers that have been on the

property since prior to our ownership, as we have just recently found out that the previous owner did not obtain a permit for them. No changes to anything on the parcel are being proposed, there will be no construction of any kind, no changes to the gate use, no change in hours or traffic.

>

> As far as the existing permanent buildings on the other parcels, as well as lighting etc., this is all part of the City of Bisbee and is already permitted and in compliance. There will be no lighting added to the parcel in question and no additional traffic flow directly into that parcel from the street.

>

> We hope this addresses your concerns. Please let us know if you need any further information.

>

> Sincerely,

>

> Christopher Borchard

>

>

> ---- Linda Weiland <donluis85603@yahoo.com> wrote:

> > Hello, Mr. Borchard. Attached is a copy of the letter we mailed to

> > you this morning. Please let us know when we can meet with you to

> > discuss the project. Jim and Linda Weiland

>

>

>

>

>

>

Turisk, Mike

From: Dennis, Keith
Sent: Friday, February 26, 2010 1:34 PM
To: Turisk, Mike
Subject: FW: 92 & S. Taylor Property

-----Original Message-----

From: chris.infinity@cox.net [mailto:chris.infinity@cox.net]
Sent: Friday, February 26, 2010 11:00 AM
To: Dennis, Keith
Subject: Fwd: 92 & S. Taylor Property

> From: "Willie Jones" <wjsmjj@earthlink.net>
> To: <chris.infinity@cox.net>
> Subject: 92 & S. Taylor Property
> Date: Sun, 21 Feb 2010 19:57:15 -0700
>
> Thank you for your informative letter. We have no objection for the
> Special Use Permit for the storage containers. Willie & Shirley Jones
> (207 N. Cleveland)
> (wjsmjj@earthlink.net)

Turisk, Mike

From: Dennis, Keith
Sent: Friday, February 26, 2010 1:35 PM
To: Turisk, Mike
Subject: FW: SUP Storage Containers parcel #102-15-121



bisbee view.JPG
(666 KB)

-----Original Message-----

From: chris.infinity@cox.net [mailto:chris.infinity@cox.net]
Sent: Friday, February 26, 2010 10:58 AM
To: Dennis, Keith
Subject: Fwd: SUP Storage Containers parcel #102-15-121

> From: "John Charley" <jcharley@cityofbisbee.com>
> To: <chris.infinity@cox.net>
> Subject: SUP Storage Containers parcel #102-15-121
> Date: Tue, 23 Feb 2010 14:01:53 -0700
>
> To Whom it May Concern,
> Regarding the application of a Special Use Permit for storage
> containers on parcel #102-15-121 The City of Bisbee sees no conflict
> of interest and recognizes Security Plus Self Storage as a business in
> good standing. Please feel free to contact me if I can be of further assistance.
>
> Regards,
>
> John Charley
> Community Development Director
> City of Bisbee
> 520-432-6269
> jcharley@cityofbisbee.com
>
>
>

Turisk, Mike

From: Dennis, Keith
Sent: Friday, February 26, 2010 1:34 PM
To: Turisk, Mike
Subject: FW: telephone response

-----Original Message-----

From: chris.infinity@cox.net [mailto:chris.infinity@cox.net]
Sent: Friday, February 26, 2010 11:02 AM
To: Dennis, Keith
Subject: telephone response

Per your conversation with Mr. Borchard, the person that responded by telephone this morning was Suzanne Anderson, 520-236-2373. She stated that she had no problem with the request.

I'm sure she would be happy to confirm if you need to call her back.

Thank you!

Turisk, Mike

From: chris.infinity@cox.net
Sent: Thursday, March 04, 2010 11:32 AM
To: Turisk, Mike
Subject: Fwd: Fwd: security plus self storage

>
>
>
> > From: "jebisins@cableone.net" <jebisins@cableone.net>
> > To: chris.infinity@cox.net
> > Subject: security plus self storage
> > Date: Thu, 04 Mar 2010 10:18:52 -0700

>
>
> Chris, my name is John Everhart. I am an Insurance Agent down the street from your Bisbee storage operation, Bisbee Insurance Center. I had the great pleasure of talking to your Mgr. yesterday at your facility. I must say they have done a fine job on the upkeep of that operation from our perspective.

>
>
> As one of the businesses in the area, we have asked for our input into obtaining a permit to continue on with the usage of the area you occupy currently (specifically the area with the storage containers).

>
> We feel you an important asset to our area and have been a reliable and conscientious force in this district.

>
> Please feel free to forward this to any concerned entities you need to.

>
> Sincerely,

>
> John Calvin Everhart

>
> 520-508-9726 my direct number anytime

SPECIAL USE: Docket SU-10-06 (Borchard)

 YES, I SUPPORT THIS REQUEST

Please state your reasons: _____

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: THE BOXCAR STORAGE UNITS

NEXT TO MY FENCE AT 106 S. TAYLOR AVE
ARE TOO CLOSE. DURING THE NIGHT STREET PEOPLE
AND ILLEGALS HIDE OR SLEEP THERE, I HAVE
SEEN WOOD PILES WHERE THEY MAKE SMALL
CAMP FIRES A COUPLE OF TIMES. MY DOGS BARK
DURING THE NIGHT AND SOMETIMES I HEAR TALKING
(Attach additional sheets, if necessary)
WHEN ~~THE~~ THE BLUE BUILDING WAS NOT RENTED
THE ELECTRIC POWER WAS TURNED OFF. VERY DARK.

PRINT NAME(S):

STEFFIE FLORES

SIGNATURE(S):

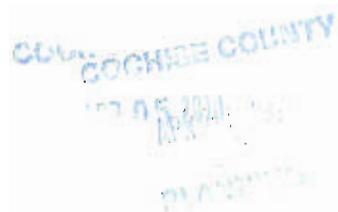
Steffie Flores

YOUR TAX PARCEL NUMBER 102-16-030 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 106 S. TAYLOR AVE

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on April 6, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline; however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Michael Turisk
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603
Email: mturisk@cochise.az.gov
Fax: (520) 432-9278



Turisk, Mike

From: Weiland, Linda
Sent: Thursday, April 01, 2010 8:09 AM
To: Mazanek, Tim; Lamberton, Karen; Riggs, Karen
Cc: Turisk, Mike; 'donluis85603@yahoo.com'
Subject: RE: SU-10-06 comments

Hello, Tim. I own the adjoining property and have reviewed your comments dated 3-17-10. As you noted, further inspection of the surrounding properties may be needed to address specific drainage problems.

I would appreciate it if you could go out and inspect and address the following drainage and erosion issues:

- 1) Gulying where the runoff from the subject parcel exits onto the property to the east. This can be seen if you walk along the outside of the fence south of the Dunlap property and then walk north along the subject property's fence line.
- 2) The ramp that was constructed to access the subject property – this ramp washes out annually, this year required an excavator to repair. The Zoning Inspector apparently had concern about small gullies that he photographed on either side of the ramp. To avoid damage from stormwater during the monsoons and allow year-round access to the new yard, we would recommend the ramp be paved.
- 3) Surface of the subject parcel – please verify whether it is AB or native material. The owner and planner identified it as being native soil. We know that the previous owner ran roller-compactor over the native surface prior to placing the storage containers, but we never observed any AB being applied. Blowing dust from the subject property has been an ongoing problem when vehicles and trucks drive over the existing surface during windy conditions.

Please let me know what you find, and if we can be of assistance. Thank you, Linda Weiland (adjoining property owner)

From: Weiland, Linda
Sent: Wednesday, March 31, 2010 9:24 AM
To: Weiland, Linda; Riggs, Karen; Lamberton, Karen
Cc: Turisk, Mike
Subject: RE: SU-10-06 comments

Note: the flow is actually to the SOUTHEAST, not the southwest as I said in my e-mail. Sorry for the confusion. - Linda

From: Weiland, Linda
Sent: Wednesday, March 31, 2010 8:37 AM
To: Riggs, Karen; Lamberton, Karen
Cc: Turisk, Mike
Subject: SU-10-06 comments

Hi, Karen and Karen. We own the property next door to the proposed Borchard/Security Plus Storage yard. We have concerns about drainage that we would like you to be aware of before you get your comments to the P&Z. This is applicable to the drainage and the road surfaces. Here is the situation:

The properties south of Hwy 92 in the area are the recipients of a huge amount of stormwater runoff from the mountains, that crosses HWY 92 as sheet flow. Since the subject yard was opened in violation several years ago, that water flows across the existing ministorage, and through the opening cut in the wall to access this new yard.

That concentrated runoff cuts a deep gully in the ramp each year (my husband has helped to repair the ramp with

his backhoe several times, last year the gully was too deep, and the owners had an excavator repair the ramp). Therefore, I would suggest that the ramp (at least) should be paved (DBST is the surface required in the area) so that the ramp does not wash out.

Regarding the drainage: after it flows down the ramp, it appears that stormwater crosses the new lot toward the SOUTHEAST, exiting onto the adjoining properties. Yesterday I walked behind the subject parcel (to the south and EAST) and saw that gullies are forming on the adjoining property. Would it be appropriate for the subject parcel to install some sort of detention basin or something to slow the runoff, and/or to install rip-rap or similar to ensure the gullies don't continue to erode?

Our other major issue is dust- the entire storage lot needs to be surfaced with something (My husband thinks compacted AB would work best) to ensure that wind blown dust from the traffic from the storage use is not an issue.

Please let me know if this message is confusing or unclear, or if we can provide any additional information to help with your review of this project. Thank you both, and have a great day. Linda Weiland

Site Development Standards

Z Reg	Standard	Complies	Doesn't	Partially (Required	Proposed	Waiver	Protects	Comments
							Noticed	Neighborhood	
RU district			X						
601	Purpose RU		X						Does not comply with 601.07
603	Permitted Uses		X						Use not listed
604	Site Development Standards			X					Meets height, screening only
604.01	Minimum Site Area		X		4AC	2.11AC	No		
604.02	Maximum Height	X							
604.03	Setbacks		X		40 feet	3 feet	Yes	No	
604.04	Site Coverage		X		25%	over 25%	No	No	Appears to exceed 25%
604.05	Distance Between Buildings		X		15 feet	3.25 feet	No	No	
605	Accessory Uses		X						Use not listed
606	Other Permitted Uses		X						Use not listed
607	Special Uses		X						Use not listed
Site Development Standards									
1801	Purpose Site Development Standards		X						All uses must comply
1803	Standards for Setbacks		X		Specific uses allowed		Yes	No	Principal use proposed in setback
1804	Off Street Parking		X				No	No	
1804.05	Schedule of spaces required		X				No	No	No parking shown for stg. contain
1804.06	Location and placement		X				No	No	No parking shown for stg. contain
1804.07	Parking and loading area improvement		X		DBST	No surface	Yes	No	
1804.08	Outdoor storage area improvement		X		Dust free grave	No surface	No	No	
1804.09	Parking area design standards			X	9x19sp.24' aisle	9x19 sp	Yes	No	9x19 sp. not adequate for RVs.
1804.1	Off Street Loading Area req's		X		12x45 loading area	None	No	No	Aisle width not shown
1805	Screening	X			None	None	N/A		
1806	Landscaping		X		5% area	None	Yes	No	
1807	Street improvements, Access, Internal Circ.			X			N/A		Complies except internal circulation
1807.05	Internal circulation		X		Avoid congestio	None shown	No	No	No driveways/circulation shown
1808	Sewage disposal		X					No	No restroom provided for customer
1809	Floodplain and Drainage		X					No	Uncontrolled runoff causing erosion on and off site
1810	Outdoor lighting			X	Parking lot light	None	No	Yes	
1811	Outdoor storage		X		See 1804.08		No	No	

Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, Arizona 85603
Attn: Mike Turisk

Dear Mike,

Pursuant to our request seeking a Special Use Permit for our parcel #102-15-121, we are hereby requesting waivers for modifications to the following development requirements:

1. Exception to the minimum setback requirement: we are out of compliance on the north & south property lines. The north property line runs along the other 2 lots that we own (Parcel #102-15-118 & 102-15-119) and does not have any effect at all on surrounding properties. As far as the setback for the south property line, moving the containers to comply with the 40' requirement would be impossible due to space limitations and would also cause more hardship on the neighboring properties as it would require heavy equipment, noise and dust during the moving process. The containers have been on the site in the same spot for over 3 years without any problems.
2. We are requesting a waiver to the minimum parking requirement and to allow for use of the existing native surface for two reasons. First, the traffic on the lot is minimal and would result in very little generation of dust. Second, the native surface is more able to absorb precipitation and would be better for the surrounding lots as far as drainage. We believe that adding pavement would cause drainage issues for the neighboring property as it would not allow for absorption. Our back parking area, located on the northeast corner of the lot, will hold a maximum of 25 parking spaces.
3. Exception to the minimum landscaping requirements: once again we feel making these changes would only cause more inconvenience for the neighboring properties. Our goal is to keep the property the way it has been since we purchased it in 2007 but to have the proper permitting.
4. Requesting a waiver for the 24' width on the driveway/gate located on the parcel in question. This gate is typically kept closed and locked as access is mainly through the front gate/driveway which meets the 24' min. width requirement. The width of the back gate/driveway is just shy of the 24' requirement but still allows for RVs to safely ingress & egress if necessary.

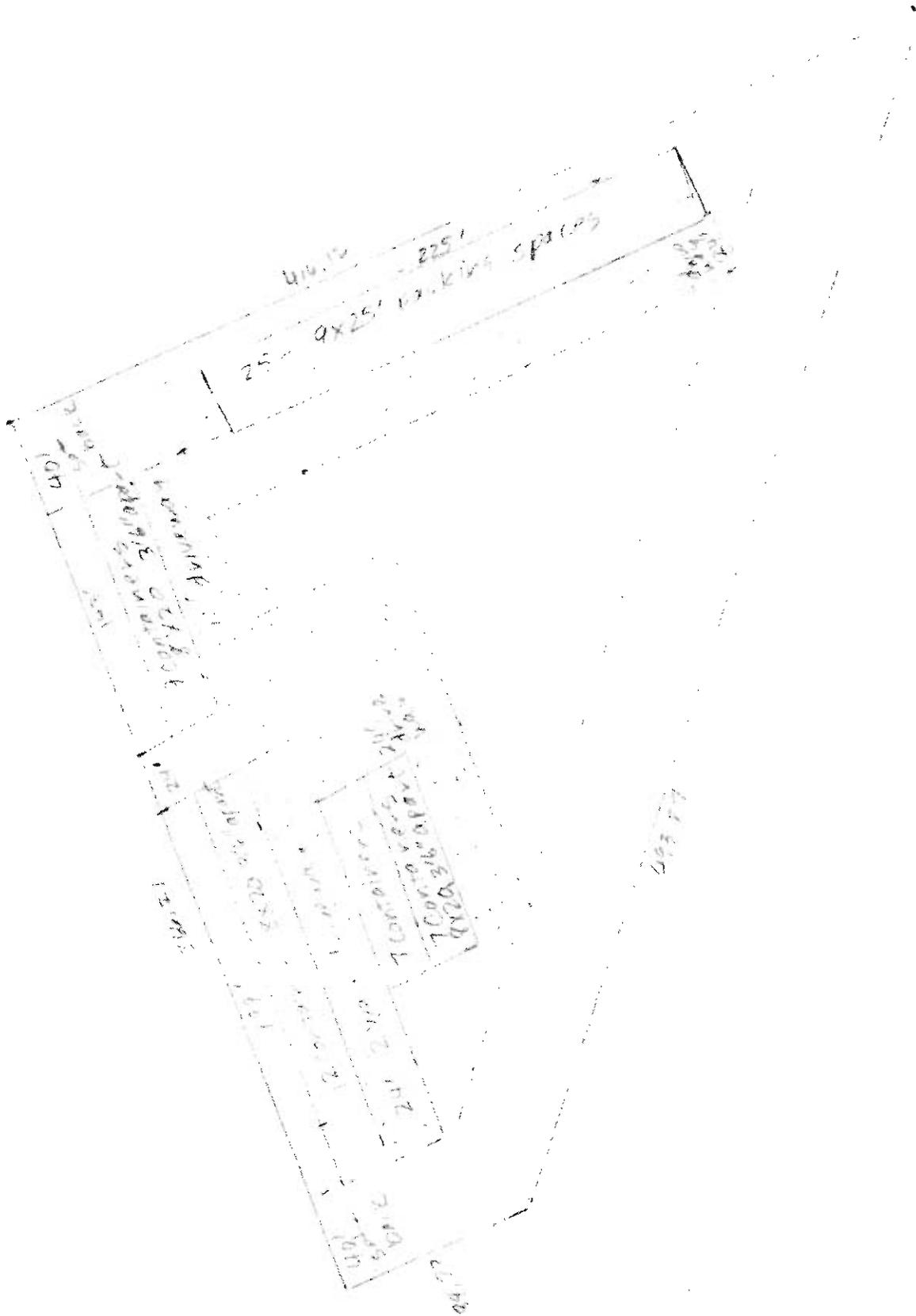
Thank you for considering our requests. As we've said previously, we have no desire to make changes to the existing layout of the business or to cause any undue hardship or inconvenience to our neighbors. Our only wish is to be in compliance and legally permit the lot in question with no disruption to our neighbors or to our business.

Sincerely,

Christopher Borchard

Owner/President

Security Plus Self Storage of Bisbee



SPECIAL USE: Docket SU-10-06 (Borchard)

 YES, I SUPPORT THIS REQUEST

Please state your reasons: _____

 X NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: Please see attached letter.

(Attach additional sheets, if necessary)

PRINT NAME(S): Linda Weiland Jim Weiland
SIGNATURE(S): Linda Weiland Jim Weiland

YOUR TAX PARCEL NUMBER: 102-15-120 A (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 111 S. Taylor Ave, Bisbee

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on April 6, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline; however, if you miss the written comment deadline you may still make a statement at the pubic hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Michael Turisk
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603
Email: mturisk@cochise.az.gov
Fax: (520) 432-9278

Jim and Linda Weiland
19 Nighthawk Ave.
Bisbee, AZ 85603

Dear Planning Commissioners:

These comments are intended to make a positive contribution, and help bring about a better understanding of the proposed Special Use Permit to legalize the expansion of the Security Plus Storage facility onto the subject parcel within the County's jurisdiction.

HISTORY

- 2001 - Subject parcel was cleared and leveled without permit, used for big-rig parking. Fill material obtained from PD ore dumps on adjacent property to east.
- 2001 - Neighbors complained about blowing dust from traffic on subject parcel
- Clearing Permit applied for (after the fact) – to install compacted AB surface
- CLP-4 required AB surface and ongoing dust and erosion control, specifically stated that expansion of storage use requires SUP.
- 2002 – 2007 Storage use expanded onto subject parcel without permit – placed CONEX boxes on subject parcel for commercial storage use.
- 2007 – Infinity Capital (Borchard) purchased property – 4 parcels for \$1.9 Million
- 2007 – Neighbors inform Infinity Capital General Manager of use without permit.
- 2009 – Zoning Inspector notes use without permit, photographs erosion on site.
- 2010 – Final Notice of Zoning Violation.
- 2010 – SUP application submitted.
- 2007-2010 Infinity Capital has enjoyed \$45,000 annual income from the violation (35 storage containers at \$100/month and 5 RV spaces at \$50 per month)

Our commercial property adjoins the subject parcel on the west. We work there daily. Since 2001 we have experienced blowing dust from the subject parcel when vehicles are present and a strong wind blows from the east, and when weed mowing occurs.

A clearing permit was issued for a compacted AB surface to control dust (Attachment 1). The permit states the applicant is responsible for maintaining dust and erosion control measures. The surface soil was compacted, but the AB was not installed, and dust is still a problem.

The ramp that access the subject parcel washes out annually in the monsoon season, resulting in gullies large enough to create a safety hazard, and require heavy equipment to repair annually. There are also erosion rills visible on the adjoining property to the east resulting from the uncontrolled stormwater leaving the subject parcel. (Attachment 2)

We feel the cause for the ongoing dust and erosion from the subject parcel is the lack of the required compacted AB surface. We would object to waivers of site development standards to allow use of native material for driveways due to the history of blowing dust.

CITIZEN REVIEW PROCESS: We were looking forward to the Citizen Review process as an opportunity to work with our neighbor to help identify impacts and help to find reasonable solutions to mitigate the impacts of his use. We sent a letter in response to his

invitation to submit comments, but Mr. Borchard declined to meet with us, and did not address the potential impacts we noted. (Attachment 3)

RV STORAGE EXPANSION: Mr. Borchard said that no changes are proposed, but the concept plan appears to show a 500% expansion of RV storage on the subject parcel. Over the years there have been approximately five or six RVs stored on the subject parcel. Now 25 RV storage spaces (labeled on the concept plan as “Back Parking Lot”) are proposed. We object to expansion of RV storage area without at least a dust-free compacted AB surface as required by the existing clearing permit CLP-4.

The concept plan does not clearly identify the proposed uses. Driveways, parking and loading areas, the source of dust problem, are not shown on the plan. The concept plan is inadequate to determine the impacts of the proposed use.

WAIVERS: We don’t object to the storage containers on the subject parcel, provided they meet site development standards. We do object to many of the waivers of site development standards. We are especially concerned about the health, safety and public welfare impacts of DUST and damage to surrounding properties due to EROSION from uncontrolled stormwater runoff from the subject parcel.

Site development standards apply to all uses (Zoning Reg.1801), which we hope would include parcels applying for permits to legalize zoning violations.

For Special Uses, modifications to site development standards require a finding that each modification will not adversely affect the public health, safety and general welfare (1716.03E). There are many waivers requested to legalize the use because the project does not meet the site development standards. The reason the standards are not met is that the previous owner deliberately chose not to apply for a Special Use Permit, and the use was established without benefit of the permit process.

Fortunately, the CONEX boxes are designed to be portable. The site is large, and the project could easily be redesigned to meet setback, site coverage, internal circulation and other site development standards. See Attachment 4 for a few alternative layouts.

Site development standards apply to all uses in all zoning districts, and are designed to protect surrounding properties from adverse impacts of a proposed use. The attached chart (Attachment 5) shows the existing project complies with only two site development standards, height and screening.

When citizens apply for permits we are required to meet all applicable county site development standards. The current application is the result of a property owner’s informed decision to bypass the permit process, and should be required to comply with all applicable site development standards.

Special Use Permits are required for uses that are more intensive and have greater potential for neighborhood impacts than Permitted Uses listed for that Zoning district. Therefore a public hearing and Citizen Review process are required to identify and address potential impacts.

Special Uses can be permitted only when they can demonstrate that potentially negative off-site impacts have been mitigated (1716.01). Waivers to site development standards must be justified by the applicant and may be approved with a finding that modification of a certain standard will not adversely affect the public health, safety and general welfare (1716.03E).

Mr. Borchard's letter to justify the waivers requested (Attachment 6) states " We have no desire to make changes to the existing layout of the business" and justifies the waivers primarily by "not wanting to inconvenience the neighbors". We appreciate his concern, but would much prefer the temporary inconvenience of a few days of heavy equipment working to move containers and apply an AB surface to the subject parcel, in exchange for long-term mitigation of the dust impacts from the subject property.

CONCLUSION:

The proposed uses (Storage – activity area greater than 5000 square feet, and Commercial Parking Lot) are not allowable Special Uses in the RU district. The RU district does allow Mini-Warehouses in the RU District with a SUP. We would welcome a Mini-Warehouse use, and do not object to the existing temporary use of storage shipping containers (CONEX boxes), provided the applicable site development standards are met.

The proposed modifications to the required site development standards are not necessary and have not been adequately justified. All modifications requested to allow native material will result in significant adverse health and safety impacts.

RECOMMENDATIONS:

1. Require the applicant to prepare a revised concept plan, modifying the location of storage containers to comply with setbacks (except to his parcel to the north), and to identify adequate circulation, driveways, parking and loading area prior to SUP approval.
2. Require applicant to surface the entire property with compacted AB within 1 year, and to maintain dust and erosion control (as is required by existing CLP-4).
3. We would recommend approval of a Special Use Permit for Mini-Warehouses (which are allowed with SUP) meeting all site development standards, with temporary approval to use the existing storage containers (for 5 years, maximum).
4. We object to expansion of RV storage areas without adequate dust-free surface.
5. The existing ramp should be paved to minimize erosion and damage from runoff.
6. We object to site development standard modifications other than:
 - Reduced setback requirements from Security Plus parcel to north
 - Require a dust-free compacted AB surface for the entire lot, including parking, driveway and loading and vehicle storage areas.
 - Waiver of requirement for parking lot lighting.
7. Please make all approved uses, time frames and conditions of approval very clear to avoid confusion in the future.

Thank you for the opportunity to participate in the Special Use Permit process.
We look forward to a fair, balanced and effective resolution of this zoning violation.

Sincerely,

Jim Weiland

Linda Weiland



COCHISE COUNTY PLANNING DEPARTMENT

1415 W. Melody Lane, Bisbee, Arizona 85603

(520) 432-9450

Fax 432-9429

James E. Vlahovich, Director

January 25, 2001

Dean Cartwright
Nest Egg Storage
PO Box 124
Bisbee, AZ 85603

Re: Land Clearing Only Permit (CLP-4); Tax Parcel 102-15-121

Dear Mr. Cartwright:

Your Land Clearing Permit application has been approved. This approval is for Land Clearing only and does not confer approval of any other proposed uses or structures that may require a separate permit. In your application, you indicate that the purpose of clearing is for a fence and building. Since your parcel is zoned RU-4, the proposed fence does not require a permit. However, the proposed building will require a building/use permit from our Department. If the proposed use of that building and any other uses on this or adjacent parcels within the County's jurisdiction are affiliated with your business, Nest Egg Storage, then a Special Use Permit may be required. I have enclosed a special use packet for your use.

Attached, please find a copy of your approved application and site plan for the proposed clearing. Please note that dust control measures should be applied during the clearing process prior to placing the proposed AB, as recommended by the Cochise County Highway and Floodplain Department. I have enclosed their comments. Please don't hesitate to contact our Department should you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark B. Apel", with a large, stylized flourish at the end.

Mark B. Apel
Senior Planner

Xc: John MacKinnon, Deputy County Attorney
Permit Tracking
Parcel File



COCHISE COUNTY PLANNING DEPARTMENT

1415 W. Melody Lane, Bisbee, Arizona 85603

(520) 432-9450

Fax 432-9429

James E. Vlahovich, Director

Land Clearing Permit Application

(For Clearing-Only Activities)

Please complete and send this application (both pages) along with a site plan and fee of \$50 to the above address. It will be reviewed by the Planning Department. If all requirements are met, a permit for clearing will be issued to you. No land clearing in accordance with the Land Clearing Ordinance, may be conducted without prior written approval from this Department.

Name: NEST EGG STORAGE

Mailing Address: P.O. Box 124 BISBEE AZ. 85602
Street or PO Box City, State Zip Code

Phone Number: 432-5565

Parcel Number* 102-15-121-8

*(Can be found on Tax Statement, also known as Tax Parcel I.D. Number):

1. Describe the purpose for clearing (vegetation control, road building, pasture improvement, fence building, etc.):

FENCE & BUILDING

2. How many acres of your parcel are going to be cleared? (Note: There are 43,560 square feet in one acre. This is equal to a square approximately 208 feet by 208 feet.) 2

3. Describe proposed dust and erosion control measures that will be taken. These should be described or illustrated on the site plan as well. (Note: If the County receives complaints or becomes aware of a particular problem resulting from this clearing activity, the County will investigate the situation to determine if the applicant has applied appropriate measures to minimize the dust, water run-off and erosion that may result from the land clearing activity. The County reserves the right to place additional requirements upon the applicant if the dust and erosion control measures either proposed or implemented by the applicant are insufficient or inappropriate for that particular situation. The failure to take reasonable measures to minimize these impacts is a violation of the Cochise County Land Clearing Ordinance and may subject the applicant to enforcement proceedings).

COMPACTED AB

Applicant's Signature:

James E. Vlahovich date: 1/23/01



LS 11281 yellow cap monument (typ.)

DON LEWIS CLAIM
SEPOY CLAIM

5/8" pin found and accepted

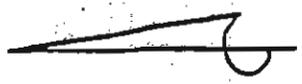
HUNTER LEASE

cor. 3, Don Lewis Claim
4" pipe with brass tag

BOUNDARY SURVEY AND MONUMENTATION
OF A PORTION OF THE DON LEWIS
AND SEPOY PATENTED CLAIMS,
WARREN MINING DIST.
COCHISE COUNTY, AZ.

Bisbee Engineering
P.O. Box 1555
Bisbee, AZ 85603

PHILIPS DODGE CORP.
COPPER QUEEN BRANCH



SCALE
1"=60'

WASH

WATER FLOW (SAME AS NOW)

WATER FLOW (SAME AS NOW)

1/2" rebar found and accepted

SEPOY CLAIM LINE

N 66°58'10" E 356.21'

S 23°02'00" E 416.12'

2.105 ACRES

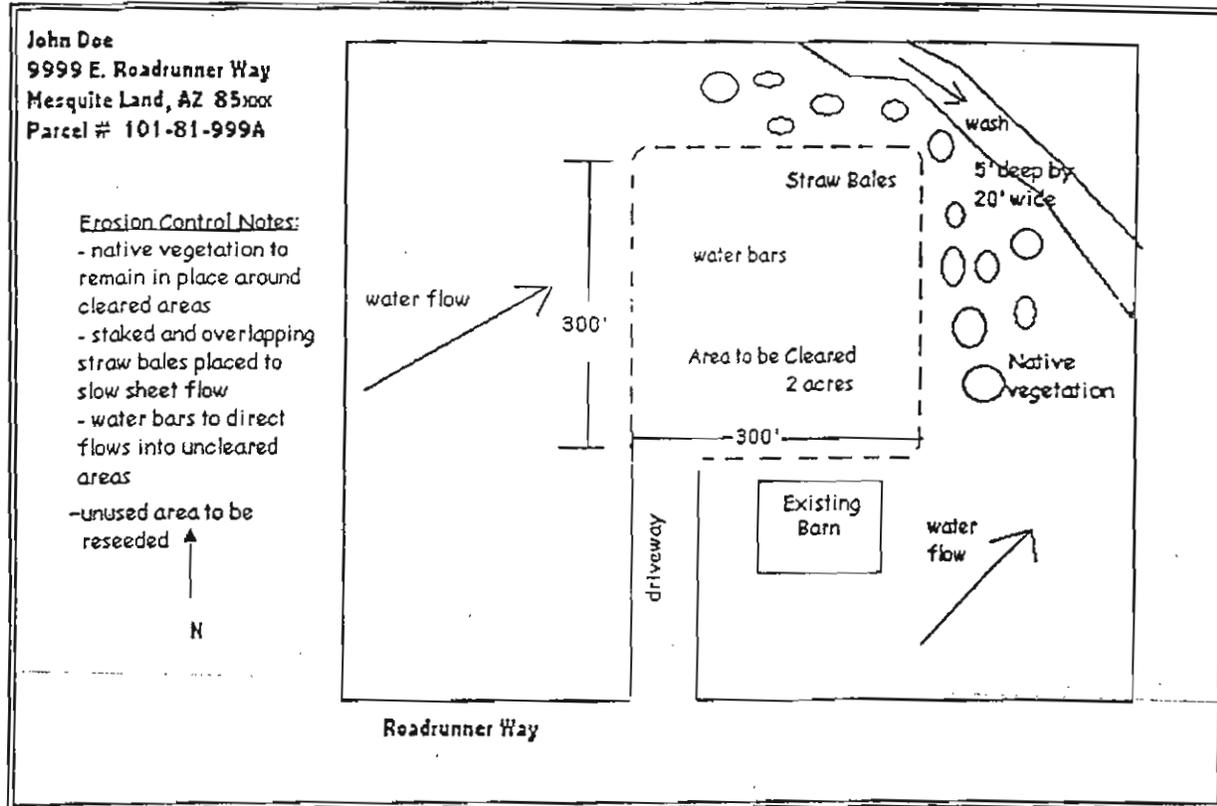
N 70°53'38" W 493.87'

N 23°02'00" W 84.77'

(N15°06'57"E, R) 270.84'
O N15°01'00"E, R

Sample Site Plan for a "Clearing-Only" Permit

This sample is for illustration purposes *only*. A site plan for a clearing-only permit can be drawn on a regular 8 1/2" by 11" sheet of white paper or larger if necessary. At a minimum, the site plan should include: applicant's name; parcel number; assigned rural address; adjoining roads; parcel boundaries; north arrow; existing structures and driveway access; washes within 300' feet of clearing, including depth, width, and direction of flow; on-site drainage; area to be cleared shown with a dashed line, the number of acres and approximate dimensions of clearing in feet; dust and erosion control measures (location of straw bales, water bars, areas to be reseeded, etc.).



Note : The issuance of a clearing permit will not include approval for any proposed uses other than clearing. Applicants will be responsible for compliance with all applicable Zoning and Floodplain Regulations regarding structures, improvements, expansions, construction, floodplains and for maintaining dust and erosion control measures until area is stabilized.

For Office Use Only:

Date Received: 1/24/01 Fee Paid: \$ 50 Receipt No.: 1657

Application and Site Plan Reviewed (initials, date): Floodplain: Reviewed by Scott Dalrymple 1/25/01

Notes: See memo

Permit Approved (initials, date): MSA 1/25/01 Permit No.: ~~CPA~~ CLP-4



Jim and Linda Weiland
19 Nighthawk Ave.
Bisbee, AZ 85603

February 24, 2010

Dear Infinity Capital Group,

We appreciate the opportunity to participate in the Citizen Review Process for your proposed Special Use Permit. As your next-door neighbors, we request a Citizen Review meeting prior to you submitting your Special Use Permit application.

A meeting would allow you to meet the neighbors, and help us to better understand your project, and any measures you may propose to mitigate project impacts.

We have questions about your project that you could answer:

- Are you proposing actual mini-warehouse buildings, or just shipping containers?
- Is outdoor storage of vehicles or equipment proposed, if so where, and how large an area?
- Will facilities be provided for your customers to dispose of trash or use restrooms?
- Are parking, loading, maneuvering areas and driveways proposed, and if so where, what size, and what surface material?

We value good neighbors, and feel a meeting to share information about your project, our concerns, and your proposed mitigations would be useful. Some potential impacts we are worried about include:

- Dust- The existing surface allows dust to blow during windy days. Your yard was leveled using old mine dump material, and dust may have health as well as nuisance impacts. Without a dust-free surface, more use will equal more dust.
- Stormwater runoff- During the rainy season, a huge volume of water flows north to south across your yard. If not controlled, runoff causes erosion, gullies, and will flow across the impound yard to your south, possibly contaminating land and water with automotive fluids.
- Traffic- Highway 92 is getting increasingly busy, and there are already conflicts between cars at the corner of Highway 92 and South Taylor Ave., with traffic turning into your yard entrance, about 20 feet from the intersection. What is the full buildout of your project and how much traffic will be generated? Are you planning to open your second gate onto Highway 92?
- Lighting- As your yard is open after dark in the winter, is lighting proposed, and will it meet the County Light Pollution Code?

We would appreciate meeting with you on-site, hopefully on a Friday or weekend, so we can better understand your project, the reason for any waivers requested, and help you to design the project to successfully minimize off site impacts on surrounding neighbors.

Sincerely,

James A. Weiland Linda Weiland

Sample
of letter sent to
neighbors

**YOU ARE INVITED TO SUBMIT COMMENTS ON OUR REQUEST
TO CHANGE THE USE OF OUR PROPERTY**

- **Business Name; Security Plus Self Storage**
- **Location: 101 S. Taylor (Hwy 92 & S. Taylor)**
- **Description: requesting Special Use Permit for Storage Containers located on parcel #102-15-121**

These storage containers have been on the site since 2007 and were there when we purchased the business, no changes or additions are being made, we are just applying for the permit as we have recently been informed that the previous owner did not obtain one.

Your input is important to us and we look forward to hearing from you.

To ensure that your questions are answered:

Submit written comments to :

Infinity Capital Group
610 E. Bell Rd Suite 2-338
Phoenix, AZ 85022

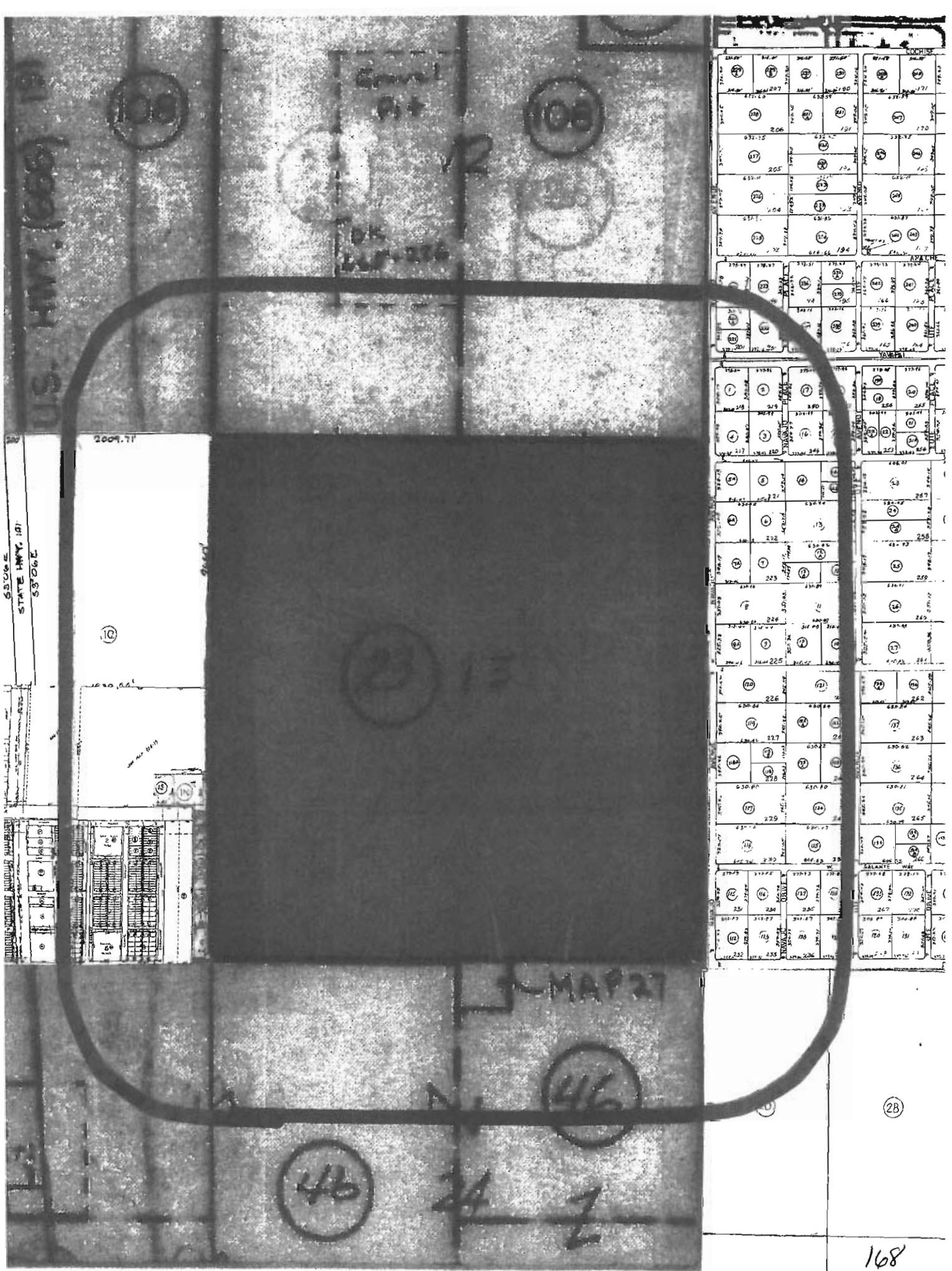
Submit email comments to chris.infinity@cox.net

To speak with a company representative call: 480-946-3535

COCONINO COUNTY

APR 11 2011

RECEIVED



U.S. MAP (200)

STATE HWY. 101

MAP 27

168



COMMUNITY DEVELOPMENT DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

MEMORANDUM

TO: Cochise County Planning and Zoning Commission
 FROM: Michael Turisk, Planner II *(MT)*
 For: Benny J. Young, P.E., Planning Director
 SUBJECT: Docket SUA-02-10 (New Tribes Mission Aviation)
 DATE: April 5, 2010 for the April 14, 2010 Commission Meeting

APPLICATION FOR A MODIFICATION OF A SPECIAL USE PERMIT

A request from New Tribes Mission Aviation for a modification of Special Use Permit SU-91-06 to allow for the construction of a six-bedroom guesthouse and six single-family residences to house pilots, employees and volunteers of New Tribes Mission Aviation, pursuant to Section 607.01 (Guest Lodging) of the Cochise County Zoning Regulations. The New Tribes Mission property in McNeal is used primarily as a pilot training facility to help fulfill the organization's global mission. If approved, the Applicant would also construct a private gymnasium to offer on-site indoor recreational opportunities for New Tribes Mission personnel and their families, pursuant to Section 607.07 (Indoor and Outdoor Recreation). The 640-acre subject parcel (tax parcel id number 404-11-023) is zoned RU-4 (Rural; minimum lot size 4 acres) and is located approximately one-third of a mile east of the McNeal town site at 3870 Davis Rd. The property is further described as being situated in Section 13 of Township 21, Range 26 East of the G&SRB&M, in Cochise County, Arizona.

Applicants: New Tribes Mission, Walter Durfey, Agent for Applicant

I. Description of Subject Parcel and Surrounding Uses

Zoning: RU-4 (Rural; one dwelling per four acres)
 Growth Area: Category D
 Plan Designation: Rural
 Size: 640-acres
 Area Plan: none
 Existing Uses: airstrip; hangars; administrative office; residences; accessory commercial and residential storage
 Proposed Uses: one, six-bedroom guesthouse; six, single-family residences; one, 9,000 sq.-ft. private gymnasium

Surrounding Zoning and Uses

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	vacant
South	MH-72	Davis Rd.; vacant
East	RU-2	vacant
West	RU-4; R-36; R-9	Residential (McNeal Town Site)

II. PARCEL HISTORY

- 4/1991; Special Use Permit for airstrip, housing and accessory structures to train and house pilots and aircraft mechanics;
- 10/2000; building permit for 1,829 sq.-ft. single-family residence;
- 2/2002; building permit for 1,840 sq.-ft. single-family residence;
- 9/2002; building permit for 2004 sq.-ft. single-family residence;
- 9/2002; Special Use Permit for private RV park;
- 12/2002; commercial permit for 20-space private RV park and washroom facility;
- 1/2004; commercial permit for administrative office;
- 4/2004; permit to replace 1,280 sq.-ft. mobile home with skirting;
- 9/2004; permit for 980 sq.-ft. mobile home;
- 11/2004; permit for 168 sq.-ft. storage shed;
- 3/2005; permit for 6,000 sq.-ft. hangar expansion;
- 11/2005; permit for 1,862 single-family residence (to replace mobile home);
- 8/2006; permit to replace above ground AV fuel tank;
- 6/2007; permit for 2,011 sq.-ft. single-family residence;
- 10/2007; Special Use Permit Modification to allow up to two rotary-wing aircraft (helicopters) and up to eight single- or twin-engine fixed-wing planes, for a total of nine permanently stationed aircraft;
- 10/2008; permit for fellowship hall remodel;
- 12/2008; permit for 2,000 sq.-ft. single-family residence; and
- 2/2010; voided permit for single-family residence (requires Special Use Permit Modification)



Fig. 1; administrative office

III. BACKGROUND/PROJECT DESCRIPTION

New Tribes Mission Aviation (hereafter, NTM) is located on the former site of the McNeal Auxiliary Airfield in the Sulphur Springs Valley in McNeal at 3870 Davis Rd. The international missionary organization was approved for a Special Use Permit in 1991 (SU-91-06) to legally establish their private airfield, training facility and accessory structures and uses, including an administrative office and housing for pilots, aircraft mechanics and other NTM employees and volunteers on their 640-acre site. The NTM complex has slowly expanded over the last 20 years by virtue of their original Special Use Permit and a second SUP for a 20-space private RV Park in 2002. The complex currently includes an airstrip, three hangars, a maintenance facility, fueling station, as well as the organization's administrative office, 25 single-family residences, a private 20-space RV Park and various commercial and residential storage structures (per the Applicant private RV park accommodates volunteer laborers and three RV spaces are currently occupied). This particular request is to remove a condition attached to the 1991 Special Use permit limiting NTM to 25 single-family residences (the 640-acre subject parcel would be allowed 160 dwelling units as-of-right). If this modification request is approved, the Applicant would construct a 4,000 sq.-ft. six-bedroom guesthouse, as well as six additional single-family residences. Three mobile homes are slated for removal to accommodate the six-bedroom guesthouse. Furthermore, as part of this modification request, the Applicants would construct a 9,000 sq.-ft. private gymnasium to offer NTM personnel and volunteers on-site indoor recreational opportunities. This project would be phased, with the 4,000 sq.-ft., six-bedroom guesthouse and 9,000 sq.-ft. private gymnasium constructed over a two-year timeframe, while the additional six single-family residences would be constructed over a 15-year timeframe, depending on demand.

IV. ANALYSIS OF IMPACTS - COMPLIANCE WITH SPECIAL USE FACTORS (SECTION 1716.02)

Section 1716.02 of the Zoning Regulations provides a list of 10 criteria with which to evaluate Special Use applications. These are considered factors in determining whether to approve a Special Use Permit, as well as to determine what conditions and/or modifications may be needed. Eight of the 10 criteria apply to this request. The project complies with six factors and complies, with conditions with two factors.

A. Compliance with Duly Adopted Plans: Not Applicable

The subject property is not located within an area plan, transportation plan, master development plan, nor is it subject to the policies of the Sierra Vista Sub-watershed Water Conservation Overlay Zone. However, all unincorporated areas in Cochise County are subject to the policies of the Comprehensive Plan. The Plan allows a wide range of uses within a given zoning district because adopted site development standards act to reduce the impacts of more intense uses without altering the intent and character of a particular zoning district. The Plan indicates that the subject parcel is designated Rural. This land use designation describes outlying areas between cities and unincorporated communities characterized by a low rate of growth, unimproved roads, low density, large lot rural-residential development and agricultural production. Surrounding areas are in agricultural production and interspersed with large tracts of undeveloped lands and rural home sites. Despite past concerns regarding aircraft noise and flight operations over and near to the McNeal town site, this request is to allow additional dwelling units and a private gymnasium only, with no expansion of training flights and/or number of permanently based aircraft proposed.

B. Compliance with the Zoning District Purpose Section: Complies

One purpose of the Rural (RU) zoning districts, per Article 6 of the Zoning Regulations, is:

- *to allow consideration of some more intense non-residential uses as special uses that are inappropriate in more densely populated urban/ suburban areas that may under some circumstances be appropriate in rural areas if designed to be sensitive to the general character of rural districts and natural environment and harmonious and in scale with existing development near the proposed site and in conformance with Section 601.06. (To protect the quality of the natural environment as it relates to safeguarding the health, safety and welfare of the people in Cochise County.)*



Fig. 2; single-family residences on NTM's property

The Rural zoning districts permit some commercial uses as principal uses and a host of others via the Special Use Permit process if the use is in harmony with the surrounding character, off-site impacts can be mitigated and the activities provide a service to area residents. Although the proposed use does not neatly comply with the purpose listed above, NTM was approved for a more intense airfield use in 1991, and although there has been concern regarding the aviation component of the overall project, since that time NTM has operated as a good neighbor, as evidenced by the lack of informal and formal complaints. Although the Sulphur Springs Valley is rural and sparsely populated, the NTM property lies just to the east of the more densely populated McNeal town site. However, again, this modification request does not include any expansion of the number of training flights and/or number of stationed aircraft, so the off-site impacts of additional housing and a private gymnasium would not be nearly as far-reaching and has essentially less potentiality to generate significant off-site impacts. Furthermore, the proposed 9,000 sq.-ft. gymnasium would be for the use of NTM personnel, guests and their families only, so traffic generated by this component of the project would be minimal because the public would not be invited to the facility.

C. Development Along Major Streets: Complies

This factor examines the number of additional access points that a project would create along major County roads. The project site is located off Davis Rd., a chip-sealed and County-maintained rural access roadway. No additional access points or curb cuts would be developed should this project be approved.

D. Traffic Circulation Factors: Complies with Conditions 3 and 4

As noted in Section C, Davis Rd. is a County-maintained rural access roadway. If the project is approved, it would represent an intensification of the overall use, but additional vehicular traffic associated with this modification request would be minimal. However, an off-site traffic impact analysis or study was never completed for the site and various uses. Staff has concerns that the cumulative effects of incremental expansion on road integrity and traffic since 1991 have not been adequately addressed. Furthermore, the County does not have right-of-way for the entire length of the property where it abuts Davis Rd. Condition 2 would require the Applicant to convey up to 40-feet of right-of-way along the south side of the subject parcel along the Davis Rd. frontage to facilitate road maintenance due to increased traffic related to the overall project (the final details of this conveyance to be determined by the Highway and Floodplain Department).

E. Adequate Services and Infrastructure: Complies

Adequate services are available. The Elfrida Fire District provides emergency services. A private well and septic systems serve the site and SSVEC provides power.

F. Significant Site Development Standards: CompliesSetbacks: Complies

The minimum setback for all structures and uses in the RU districts is 40-feet for Special Uses and 20-feet from road travel ways. The submitted site plan indicates that the nearest structure to the property line and road travel way would be approximately 150-feet.

Site Coverage: Complies

The subject parcel is 640-acres, so the project as proposed would not approach the 25 percent site coverage limit allowed in the RU zoning districts.

Access: Complies with Condition 2

Access to the site is via Davis Rd. and the apron is improved with chip-seal. The driveway meets the minimum 24-foot wide standard for two-way driveways. Project-generated traffic on County-maintained Davis Rd. may exacerbate wear on the road and without dedicated right-of-way, repair and maintenance of this road would be problematic.

Landscaping: Not Applicable

Landscaping is not required in Category D Growth Areas. However, the site is landscaped with mature trees along the Davis Rd. frontage.

Outdoor Storage: Not Applicable

Outdoor storage would not be a component of this project.

Screening: Does Not Comply

Screening is not required in Category D Growth Areas.

Parking: Complies with Condition 1

Per Section 1804.05 of the Zoning Regulations, the total minimum number of parking spaces required is one per five persons at expected maximum capacity. In addition, the Applicants must construct at least one ADA parking space to the minimum standard. It should be noted, however, that the gymnasium would not be open to the public and would be used primarily by on-site residents, so fewer spaces would be required than if the facility were to be available to the public. Staff recommends a modification of the parking requirement, per Section 1804.05, to allow the Applicant to determine an adequate number of parking spaces for the private gymnasium at the commercial permit phase. If approved, the Applicant would be required to submit a revised site plan indicating the number of parking spaces. Condition 4 requires submittal of a revised site plan demonstrating compliance with all site development standards prior to permit issuance.

Signs: Not Applicable

The Applicant is not proposing additional signage for this project (signage was approved as part of the commercial permit for the aviation uses).

Floodplain: Complies

The area on the subject property where the proposed structures would be sited is not within a 100-year flood zone, so a floodplain use permit would not be required. However, the Highway and Floodplain Department recommends that the top of the lowest floor of all structures be elevated at least one foot above the adjacent grade.

G. Public Input: Complies

As part of the mandatory Citizen Review process for Special Use Permit modification requests, the Applicant mailed letters to property owners within 1,500 feet of the subject parcel and received five positive responses (three phone calls, one letter and one email). The Department mailed notices to neighboring property owners within 1,500 feet and staff posted a notice of public hearing on the site, as well as published a legal notice in the *San Pedro Valley News-Sun*. As of this writing, the Department has received six letters of support for this modification request.

H. Hazardous Materials: Not Applicable

The proposed use would not generate hazardous materials, nor would hazardous materials be stored on site.

I. Off-Site Impacts: Complies with Conditions 2, 3 and 4

There has been concern from several McNeal residents about flight training operations disturbing the peace. However, those concerns were addressed in the original Special Use Permit and a subsequent approved modification in 2007. This request is to allow additional dwelling units and a private gymnasium only. The off-site impacts generated by the additional dwelling units and a private gymnasium would be negligible.

J. Water Conservation: Complies

The project site is not within the Sierra Vista Sub-Watershed. However, Section 1820.01 of the Zoning Regulations requires that Countywide water conservation measures be employed in all residential and non-residential projects. The Applicants have indicated that low-volume toilets and fixtures would be installed in all new housing and the private gymnasium.

VI. SUMMARY AND CONCLUSION

NTM was approved for a Special Use Permit in 1991 (SU-91-06) to legally establish a private airfield, training facility and accessory structures and uses, including an administrative office and housing for pilots, aircraft mechanics and other NTM employees and volunteers. The NTM complex has slowly expanded over the last 20 years by virtue of two Special Use Permits, including one for a 20-space RV park and one Special Use Permit modification to expand the number and type of permanently headquartered aircraft.



Fig. 3; single-family residences on NTM's property

The NTM complex currently includes an airstrip, three hangars, a maintenance facility, fueling station, as well as an administrative office, various housing units and several commercial and residential storage structures. This request is for eliminating a condition attached to their 1991 Special Use Permit limiting NTM to providing up to 25 employee/volunteer housing units. If approved, the Applicant would construct a 4,000 sq.-ft. six-bedroom guesthouse as well as six additional single-family residences (three mobile home sites would be removed in order to accommodate the six-bedroom guesthouse). In addition, the Applicant would construct a 9,000 sq.-ft. *private* gymnasium. Despite the expected low-impact of the proposed expansion, the cumulative effects of incremental expansion were not sufficiently addressed over the last 20 years. Therefore, staff recommends Conditions 2 and 3 to ensure that the integrity of Davis Rd. at the project site is maintained now and in the future. The recommended conditions of approval represent a measure of assurance that NTM will continue to operate as a good neighbor.

Factors in Favor

1. The project would not generate significant dust, noise and/or traffic;
2. The project is an expansion of an existing use;
3. The gymnasium would be for private use only;
4. The project can meet the site development standards for the RU zoning district;
5. The six-bedroom guesthouse would replace three mobile home spaces; and
6. To date, the Department has received six letters of support for the project.

Factor Against

1. Since 1991, the NTM complex has slowly expanded without a long-term traffic and infrastructure impact analysis completed. Although this project is an expansion of an existing use, the cumulative traffic and roadway impacts of the NTM complex were never addressed to ensure that the array of activities do not compromise traffic circulation and the overall integrity of Davis Rd.; and
2. If 160 homes were built on the subject property, the traffic impacts would likely warrant road improvements to Davis Rd.

VII. RECOMMENDATION

Based on the factors in favor of approval staff recommends **conditional approval** of this Special Use Permit Modification request from NTM Aviation, with the following conditions:

1. Within thirty (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 submit and obtain a building/use permit for the project within 12 months of approval, including a completed joint permit application. The building/use permit shall include a site plan in conformance with all applicable site development standards (except those modified or waived by the Commission) and with Section 1705 of the Zoning Regulations, the completed Special Use Permit questionnaire, 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. Prior to permit issuance, the Applicant shall convey up to 40-feet of right-of-way along the south side of the subject parcel for the Davis Rd. alignment (the final details of this conveyance to be determined by Highway and Floodplain Department);
3. The gymnasium shall be used for NTM employees, guests and their families only and not for public use;
4. Prior to permit issuance, the Applicant will submit a revised site plan showing all required elements that have not been modified;
5. 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; and

6. Any changes to the approved Special Use shall be subject to review by the Planning Department and may require additional modification and approval by the Planning and Zoning Commission.

If approved, Staff recommends that the Commission approve the following Site Development Standard Modification:

1. Modification of the minimum parking requirements for the gymnasium, per Section 1804.05, to allow the Applicant to determine the adequate number of spaces required (at the commercial permit phase) for the private gymnasium.

Sample Motion (in the affirmative): *Mr. Chair, I move to approve Docket SUA-02-10, based on the Factors in Favor of approval as the Findings of Fact, with the conditions of approval and the modification recommended in the staff report.*

IX. ATTACHMENTS

- A. Special Use Permit Application
- B. Site Plan
- C. Location Map
- D. Aerial Photo
- E. County Staff Comments
- F. Citizen Review Report
- G. Citizen Review Letter
- H. Public Comments



COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Susan Buchan, Director

COCHISE COUNTY PLANNING DEPARTMENT COMMERCIAL USE/BUILDING PERMIT/SPECIAL USE PERMIT QUESTIONNAIRE (TO BE PRINTED IN INK OR TYPED)

TAX PARCEL NUMBER: 404-11-023

APPLICANT: NTM Aviation

MAILING ADDRESS: 3870 W. Davis Rd. McNeal Az. 85617

CONTACT TELEPHONE NUMBER: 520-642-6182 cell 520-678-9380

PROPERTY OWNER (IF OTHER THAN APPLICANT): _____

ADDRESS: _____

DATE SUBMITTED: 02-24-10

Special Use Permit Public Hearing Fee (if applicable) \$ _____

Building/Use Permit Fee \$ _____

Total paid \$ _____

*# 150 For
SUP modification
30-02-10*



PART ONE - REQUIRED SUBMITTALS

1. Cochise County Joint Application (attached).
2. Questionnaire with all questions completely answered (attached).
3. A minimum of (6) copies of a site plan drawn to scale and completed with all the information requested on the attached Sample Site Plan and list of Non-residential Site Plan Requirements. **(Please note that nine (9) copies will be required for projects occurring inside the Building Code enforcement area. In addition, if the site plan is larger than 11 by 17 inches, please provide one reduced copy.)**
4. Proof of ownership/agent. If the applicant is not the property owner, provide a notarized letter from the property owner stating authorization of the Commercial Building/Use/Special Use Application.
5. Citizen Review Report, if special use.

D. Circle whether you will be on public water system or private well. If private well, show the location on the site plan.

Estimated total gallons of water used: per day No change per year No change

E. Will you use a septic system? Yes No If yes, is the septic tank system existing? Yes No
Show the septic tank, leach field and 100% expansion area on the site plan.

F. Does your parcel have permanent legal access*? Yes No
D. If no, what steps are you taking to obtain such access?

*Section 1807.02A of the Cochise County Zoning Regulations stipulates that no building permit for a non-residential use shall be issued unless a site has permanent and direct access to a publicly maintained street or street where a private maintenance agreement is in place. Said access shall be not less than twenty (20) feet wide throughout its entire length and shall adjoin the site for a minimum distance of twenty (20) feet.

Does your parcel have access from a (check one):
 private road or easement**
 County-maintained road
 State Highway

**If access is from a private road or easement provide documentation of your right to use this road or easement and a private maintenance agreement.

G. For Special Uses only - provide deed restrictions that apply to this parcel if any.
Attached NA

H. Identify how the following services will be provided:

Service	Utility Company/Service Provider	Provisions to be made
Water	Private Well	
Sewer/Septic	Septic	
Electricity	Sulphur Springs Valley Elect Co.	
Natural Gas	SW Gas	
Telephone	Valley Telecom	
Fire Protection	Elfrida Fire Dept.	

SECTION B - Outdoors Activities/Off-site Impacts

1. Describe any activities that will occur outdoors.

None

2. Will outdoor storage of equipment, materials or products be needed? Yes ___ No X if yes, show the location on the site plan. Describe any measures to be taken to screen this storage from neighboring properties. _____
3. Will any noise be produced that can be heard on neighboring properties? Yes ___ No X if yes: describe the level and duration of this noise. What measures are you proposing to prevent this noise from being heard on neighboring properties? _____

4. Will any vibrations be produced that can be felt on neighboring properties? Yes ___ No X if yes; describe the level and duration of vibrations. What measures will be taken to prevent vibrations from impacting neighboring properties? _____

5. Will odors be created? Yes ___ No X If yes, what measures will be taken to prevent these odors from escaping onto neighboring properties? _____

6. Will any activities attract pests, such as flies? Yes ___ No X If yes, what measures will be taken to prevent a nuisance on neighboring properties? _____

7. Will outdoor lighting be used? Yes ___ No X If yes, show the location(s) on the site plan. Indicate how neighboring properties and roadways will be shielded from light spillover. Please provide manufacturer's specifications.
8. Do signs presently exist on the property? Yes X No ___ If yes, please indicate type (wall, freestanding, etc.) and square footage for each sign and show location on the site plan.
 A. Only standard street signs D. _____
9. Will any new signs be erected on site? Yes ___ No X If yes, show the location(s) on the site plan. Also, draw a sketch of the sign to scale, show the copy that will go on the sign and **FILL OUT A SIGN PERMIT APPLICATION** (attached).

10. Show on-site drainage flow on the site plan. Will drainage patterns on site be changed?

Yes ___ No X

If yes, will storm water be directed into the public right-of-way? Yes ___ No X

Will washes be improved with culverts, bank protection, crossings or other means?

Yes ___ No X

If yes to any of these questions, describe and/or show on the site plan.

11. What surface will be used for driveways, parking and loading areas? (i.e., none, crushed aggregate, chipseal, asphalt, other)

crushed stone

12. Show dimensions of parking and loading areas, width of driveway and exact location of these areas on the site plan. (See site plan requirements checklist.)

13. Will you be performing any off-site construction (e.g., access aprons, driveways, and culverts)?

Yes ___ No X If yes, show details on the site plan. **Note: The County may require off-site improvements reasonably related to the impacts of the use such as road or drainage improvements.**

SECTION C - Water Conservation and Land Clearing

1. If the developed portion of the site is one acre or larger, specific measures to conserve water on-site must be addressed. Specifically, design features that will be incorporated into the development to reduce water use, provide for detention and conserve and enhance natural recharge areas must be described. The Planning Department has prepared a *Water Wise Development Guide* to assist applicants. This guide is available upon request. If the site one acre or larger, what specific water conservation measures are proposed? Describe here or show on the site plan submitted with this application.

natural vegetation + drought tolerant

landscaping. Low volume toilets, urinals,

+ plumbing fixtures.

2. How many acres will be cleared? NONE

If more than one acre is to be cleared describe the proposed dust and erosion control measures to be used (Show on site plan if appropriate.) _____

6. Proof of Valid Commercial Contractor's License. (Note: any building used by the public and/or employees must be built by a Commercial Contractor licensed in the State of Arizona.)
7. Hazardous or Polluting Materials Questionnaire, if applicable.

OTHER ATTACHMENTS THAT MAY BE REQUIRED DEPENDING ON THE SCOPE OF THE PROJECT

1. Construction Plans (possibly stamped by a licensed Engineer or Architect)
2. Off-site improvement Plans
3. Soils Engineering Report
4. Landscape Plan
5. Hydrology/Hydraulic Report
6. Sierra Vista Sub-Watershed Water Conservation Overlay Zone Permit Checklist
7. Traffic Impact Analysis (TIA): **Where existing demonstrable traffic problems have already been identified such as high number of accidents, substandard road design or surface, or the road is near or over capacity, the applicant may be required to submit additional information on a TIA.**
8. Material Safety Data Sheets
9. Extremely Hazardous Materials Tier Two Reports
10. Detailed Inventory of Hazardous or Polluting Materials along with a Contingency Plan for spills or releases

The Commercial Permit Coordinator/Planner will advise you as soon as possible if and when any of the above attachments are required.

PART TWO - QUESTIONNAIRE

In the following sections, thoroughly describe the proposed use that you are requesting. **Attach separate pages if the lines provided are not adequate for your response.** Answer each question as completely as possible to avoid confusion once the permit is issued.

SECTION A - General Description (Use separate sheets as needed)

1. What is the existing use of the property? Private Airfield + Residences
2. What is the proposed use or improvement? ① remove limit of 25 dwellings on 600-acre site;
(Per sec 607.07) ~~Additional 6 residences,~~
(2) Gymnasium, + No charge 6-bedroom guest house (sec. 607.01 Guest Lodging)
3. Describe all activities that will occur as part of the proposed use. In your estimation, what impacts do you think these activities will have on neighboring properties? 6 homes allow for increase in personnel. Gym will provide a safe facility for indoor recreation for staff and their children. Guest house will provide rooms for visiting family, friends, + volunteers.
The proposed change of use will only impact neighboring commercial properties. They will realize increased income.

4. Describe all intermediate and final products/services that will be produced/offered/sold.

N/A

5. What materials will be used to construct the building(s)? (Note: if an existing building(s), please list the construction type(s), i.e., factory built building, wood, block, metal)

Guest house + residences - WOOD Gym - metal

6. Will the project be constructed/completed within one year or phased? One Year _____
Phased if phased, describe the phases and depict on the site plan.

Guest house + gym - 2 yrs.
Additional 6 residences - 15 yrs.

7. Provide the following information (when applicable):

A. Days and hours of operation: Days: 5 Hours (from 8 AM to 4 PM)

B. Number of employees: Initially: _____ Future: _____
Number per shift Seasonal changes N/A

C. Total average daily traffic generated:

(1) How many vehicles will be entering and leaving the site.

No changes

(2) Total trucks (e.g., by type, number of wheels, or weight)

1 per day - UPS Truck

(3) Estimate which direction(s) and on which road(s) the traffic will travel from the site?

West on Davis Rd to 191

(4) If more than one direction, estimate the percentage that travel in each direction

(5) At what time of day, day of week and season (if applicable) is traffic the heaviest

N/A

SECTION D - Hazardous or Polluting Materials

Does the proposed use involve hazardous materials? These can include paint, solvents, chemicals and chemicals wastes, oil, pesticides, herbicides, fertilizers, radioactive materials, or biological agents. Engine repair, dry cleaning, manufacturing and all uses that commonly use such substances in the County's experience require completion of the attachment.

No X Yes _____ If yes, complete the attached Hazardous Materials Attachment. Engine repair, manufacturing and all uses that commonly use such substances in the County's experience also require completion of the attachment.

Applications that involve hazardous or polluting materials may take a longer than normal processing time due to the need for additional research concerning the materials' impacts. The Arizona Department of Environmental Quality (ADEQ) Compliance Assistance Program can address questions about Hazardous Materials (1-800-234-5677, ext. 4333.)

SECTION E - Applicant's Statement

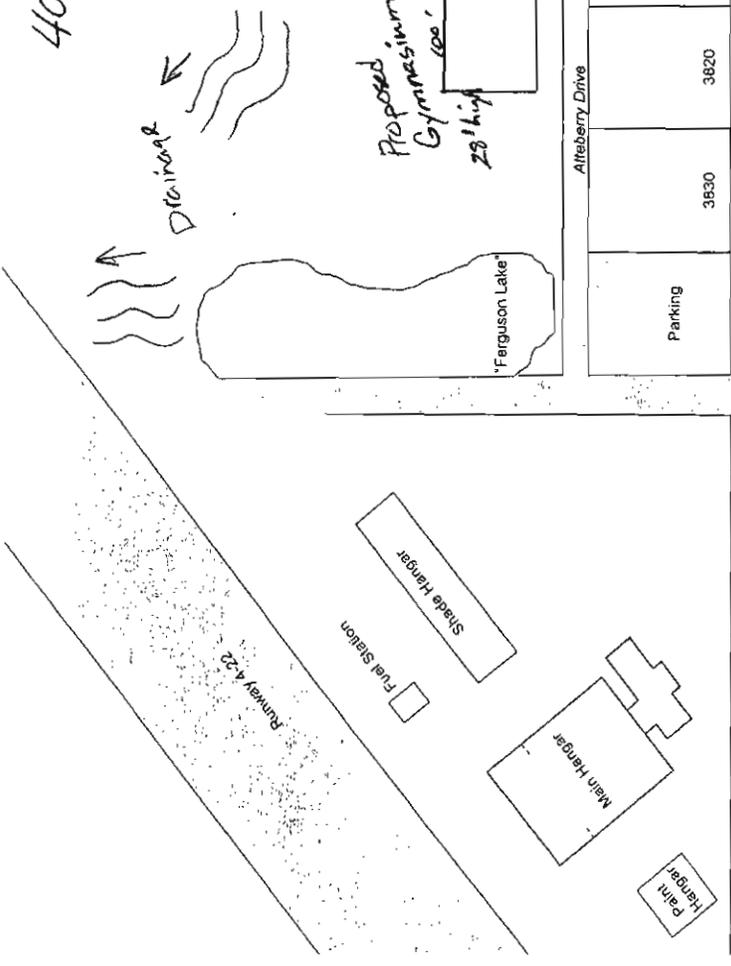
I hereby certify that I am the owner or duly authorized owner's agent and all information in this questionnaire, in the Joint Permit Application and on the site plan is accurate. I understand that if any information is false, it may be grounds for revocation of the Commercial Use/ Building/ Special Use Permit.

Applicant's Signature Walter Duff

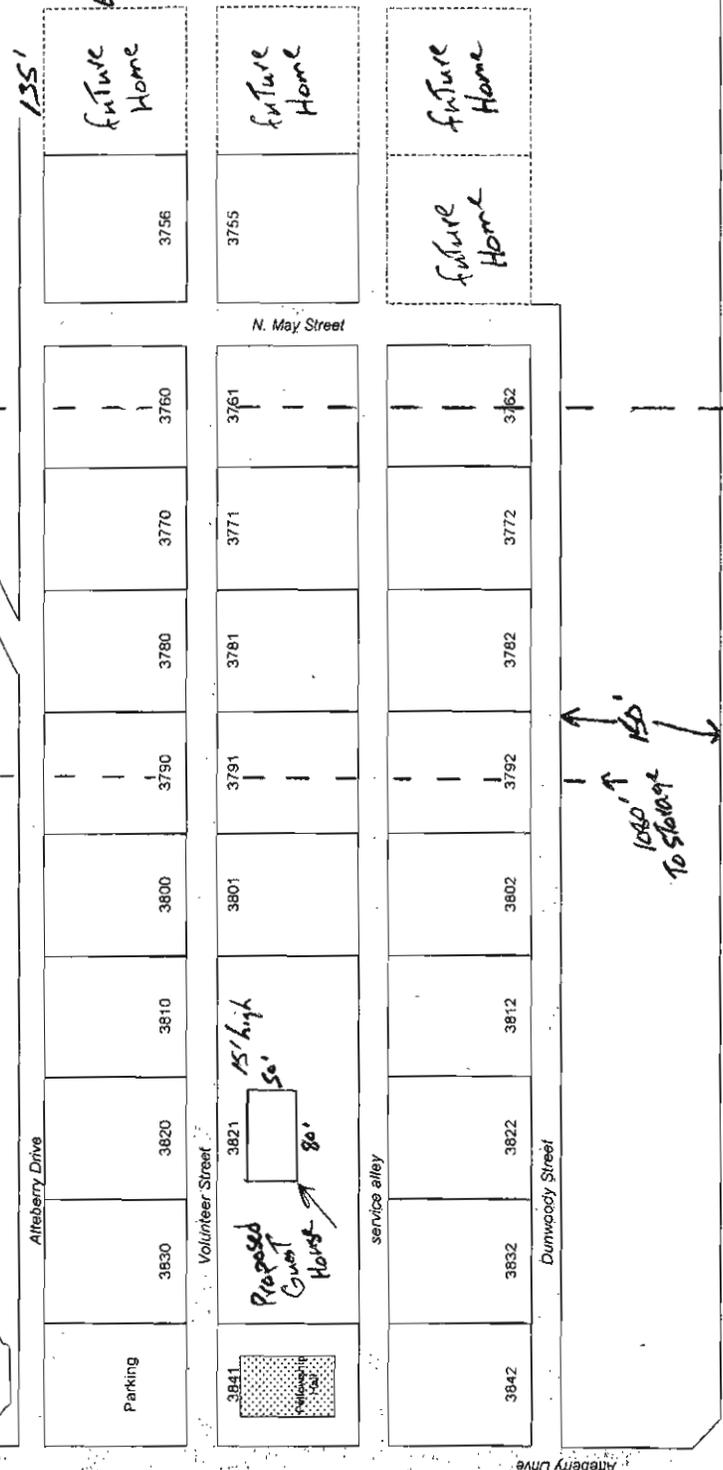
Date signed 02-24-10

Midsection
 Scale 1" = 180' - 0"
 N
 To N. Property Line 4,200'

404-11-023
 NTMA
 February 18, 2010



To Property ← 2,640' ←
 To Property Line →
 2,640' → To property line



1080' ↑
 150' ↓
 To Storage

2870 Davis Rd

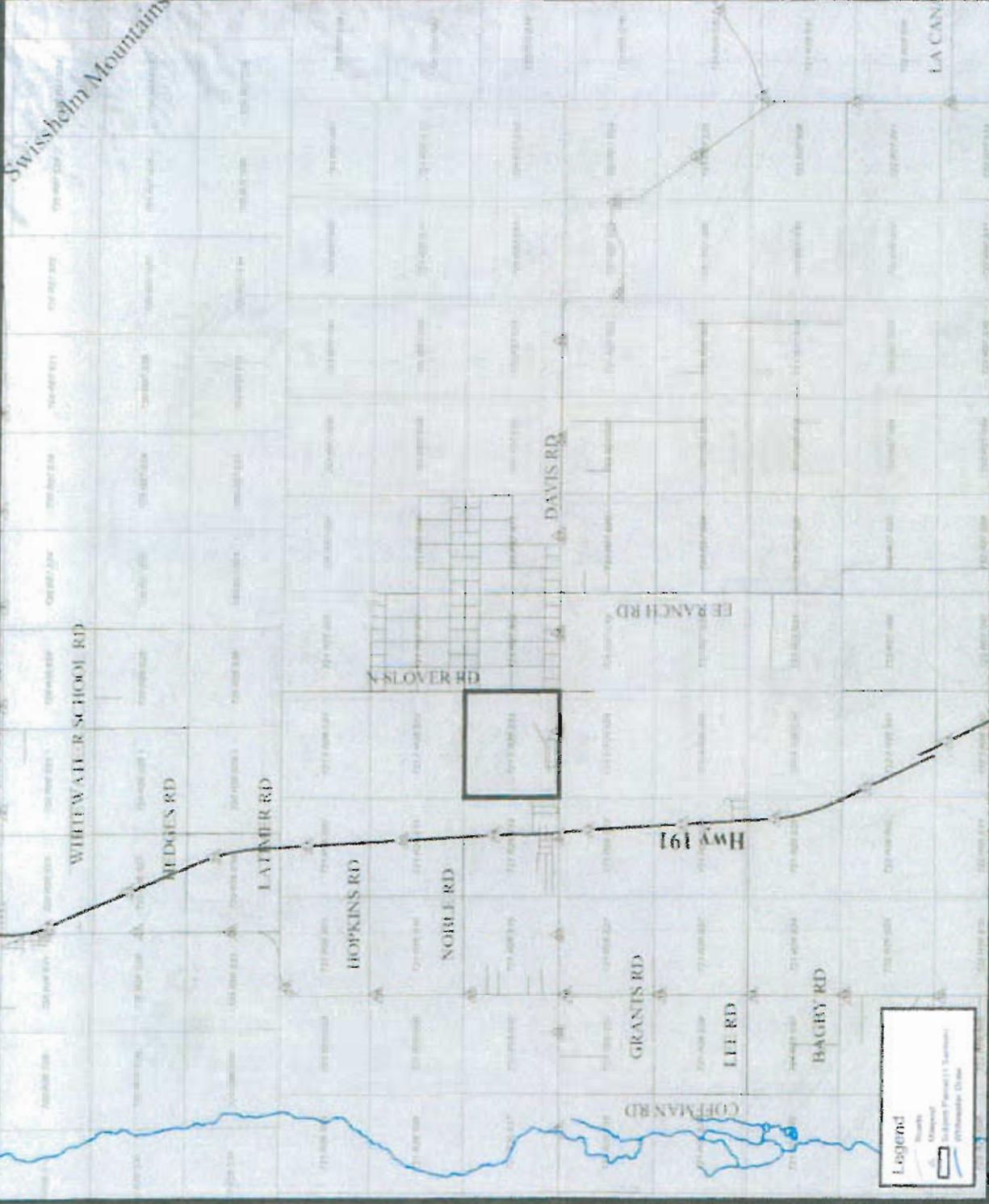
Davis Road





(UOIRVA IWN)
SU-91-06A

This map is a product of the
Cochise County GIS



Legend

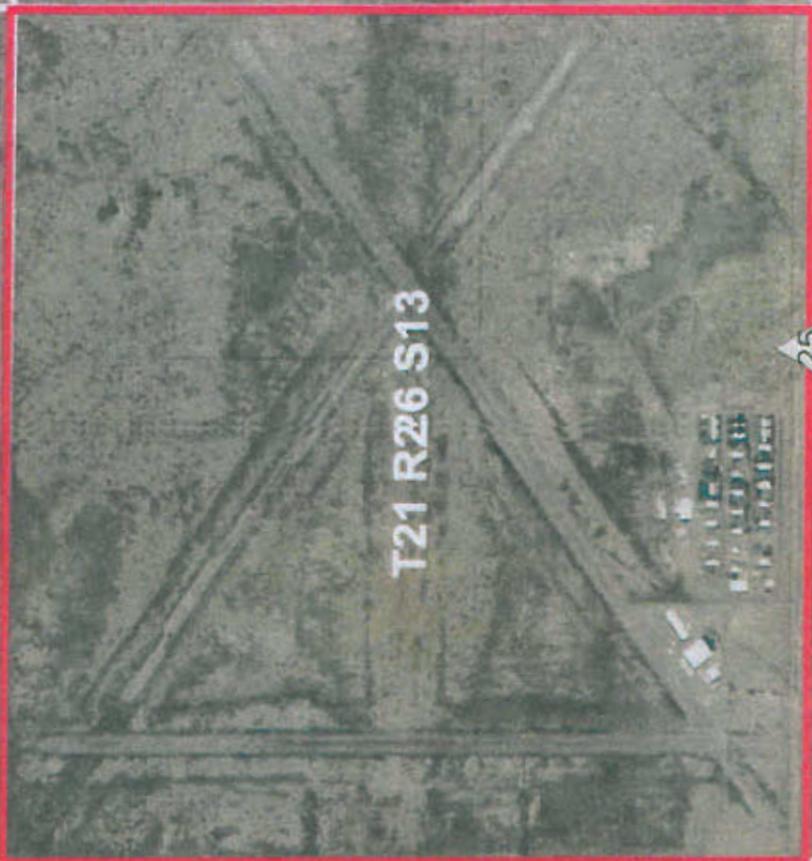
- Parcel
- County
- Subdivided Parcel (1/4 Section)
- Whitewater Channel

124



S11-91-06A (NTM Aviation)
Aerial

This map is a product of the
Cochise County GIS



T21 R26 S13

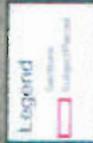
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T21 R26 S14

19

24

18





COCHISE COUNTY
HIGHWAY AND FLOODPLAIN DEPARTMENT



MAKING IT BETTER

MEMORANDUM

Date: March 18, 2010
To: Michael Turisk
Planner
From: Alan Patterson
Engineering Tech
Subject: SUA-10-02, New Tribes Mission Aviation, 3870 Davis Road.

I have reviewed the site plan submitted for the above development and have the following comments:

1. No Floodplain Use Permit required. Property located in Flood Zone X.
2. Any improvements may not create or increase stormwater impacts on other area properties or public roadway.
3. Due to the potential for sheet flow flooding, it is *recommended* that all structures have the top of the lowest floor elevated at least one (1) foot above the adjacent grade. For structures with basements it is *recommended* that a sloped grade be utilized around the bottom floor of the structure.

Review of this site plan and drainage report does not relieve the developer from any obligation to provide all the improvements per County Code, notwithstanding that something may have been overlooked in this or prior reviews.

Turisk, Mike

From: Garcia, Luis
Sent: Monday, March 29, 2010 1:10 PM
To: Turisk, Mike
Subject: RE: SUP Modification request from New Tribes Mission

Mike,

Full construction documents must be provided for review and approval by this office prior to the issuance of a Building Permit. All construction must be in accordance with the currently adopted Cochise County Building Safety Code.

Luis Garcia Jr., CBO
Cochise County Planning Department
Senior Plans Examiner
1415 Melody Lane
Bisbee, AZ 85603

From: Turisk, Mike
Sent: Friday, March 12, 2010 3:20 PM
To: English, Ann; pedie@cochiseschool.org; 'Cruz Silva'; bemisr@vtc.net; Flores, Dora; Garcia, Luis; Riggs, Karen; McGee, Michael; Young, Benny; Pregler, Lola; Lamberton, Karen
Cc: Montana, Susana
Subject: SUP Modification request from New Tribes Mission
Importance: High

All,

Your comments are requested for a proposed Special Use Permit Modification request from New Tribes Mission (NTM) Aviation. The address is 3870 Davis Rd. Please see the attached SUP application and site plans for additional details.

This Special Use Permit request will be considered by the Planning and Zoning Commission on Wednesday, April 14th.

Thank you in advance for your time and consideration.

Sincerely,

Michael Turisk, Senior Planner
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, Arizona 85603
tel: 520.432.9240
fax: 520.432.9278
email: mturisk@cochise.az.gov

"Public Programs; Personal Service"

Turisk, Mike

From: Lamberton, Karen
Sent: Monday, April 05, 2010 7:56 PM
To: Turisk, Mike
Subject: Final Memo

Here it is...I am anticipating no issues with the request for right of way and I tweaked the language to imply they need to be "working" with the County on this prior to C of O of the guesthouse, essential 2 years away.

Please feel empowered to make any changes needed if and when you talk with the applicant. I will not be available to make any edits until after this needs to be out.

Karen L. Lamberton, AICP
County Transportation Planner
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, Arizona 85603

520.432.9240 FAX 520.432.9278

Your County Questions Answered
www.cochise.az.gov



COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

Benny J. Young, P.E., Director

MEMORANDUM

TO: Mike Turisk, Senior Planner

FROM: Karen L. Lamberton, County Transportation Planner

SUBJECT: New Tribes Mission Aviation: SUA-10-02\Parcel #404-11-023

DATE: April 2, 2010

The New Tribes Mission (NTM) first applied and was granted a Special Use permit for an aviation related activity on their one square mile parcel in 1991. Since that time a number of commercial permits and special use modifications have been made and the site has expanded from its original concept plan to include short and long term housing, RV hook-ups, guest services of various types as well as the airstrip and hangers. The public is invited to the site for events, training and other activities and volunteers are welcomed to the site for short-term stays on site. New Tribes Mission staff have the option at retirement to continue to live on a NTM site and the Cochise County site has a number of permanent retirees on the premises. The applicants are now applying for a Special Use modification to add additional housing and a private gymnasium for on-site residents.

Traffic Impact

The proposed increase in residential unit would be anticipated to increase the traffic impact from the site by about 66 trips per day. The residential uses on the entire site exceed 395 trips per day and the non-residential uses add additional traffic for off-site employees, deliveries (such as aviation fuel trucks), visitors and volunteers. In addition, some of this traffic is larger and heavier RV's moving on and off site as training and other events occurs that bring in short-term residents and volunteers. Traffic counts on this portion of Davis Rd (the latest taken in 2007) show significant differences between those segment of roadway further east of the NTM site (about 75 vehicle trips per day) and that directly west of the NTM site (1,412 vehicle trips per day).

As this site has grown incrementally over time the County files show no evidence of a traffic analysis being completed by the applicant or County staff nor have there been any off-site impacts identified and mitigation for those impacts applied to any of the prior Special Use permits or Commercial Permits. The applicants obtained a right-of-way permit to access the county-maintained roadway system and installed an adequate driveway apron in 1991. Access is taken off of Davis Rd., a county-maintained 24 foot, rural major access roadway. Davis Rd is then taken to state highway 191, about 1/3rd of a mile west of the NTM site. As a rural major access roadway a total of 80 feet of right-of-way is required to meet the County design standard. At this time no

dedicated right-of-way exists on this section of Davis Rd.; 66 feet was declared as part of the historic county highway system.

In 2002 the applicants were granted two waivers from the P&Z Commission: one related to screening for the east and south boundary of the RV Park and the second to allow the RV Park access drive to narrow to about 14 feet at the gate on site. In April of 2006 the applicants were advised, as part of their commercial permit for additions to aircraft hangers and storage buildings, that “...**any adverse impact to adjacent properties and/or roadways due to the proposed development is the reasonability of the property owner.**”

Davis Rd. is currently a chip-sealed road at this location. The section of Davis Rd. west of highway 191 has just completed a complete environmental review and it was learned through that process that the Davis Rd. base has failed. This will require a complete re-building of the roadway base, re-compaction and at least 4 inches of new asphalt to be laid down to reconstruct the one mile of this roadway at cost nearing \$4.4 million. The County highway staff are concerned that east Davis Rd. is also at the end of its useful life and that substantive re-building will be needed in the near future on both sides of the highway. Obtaining federal funding to assist with this project has been hindered by the lack of adequate right-of-way along the entire length of Davis Rd., including that portion of roadway used most frequently by the NTM. Interim measures, such as crack-sealing and overlays are needed to hold the roadway surfaces together while the County works through the federal process to obtain funding and meet federal project requirements, often a 2-5 year process.

Legal Authority

Arizona State Law sets forth the powers of jurisdictions, such as the County, to set conditions and require compliance prior to issuing various types of permits as well as the processes for applicants to appeal such conditions or requirements. Under A.R.S. §11.810 exactions (conditions in connection to development permits) the County has a duty to analyze the impacts of the proposed use and determine that:

- (1) there is an essential nexus between the dedication and the exaction;
- (2) that the exaction will serve a legitimate governmental interest; and
- (3) that the exaction is "roughly proportional" to the impact of the proposed use, improvement or development.

Over time a body of regulatory guidance and legal precedent has clarified what constitutes an essential nexus, what is a legitimate governmental interest and methods to determine a proportional test for any proposed conditions. Transportation impacts are frequently a subject of required conditions in order to mitigate very real impacts in areas where the proposed use is discretionary and not simply a matter of right for the individual applicant.

Transportation Impact Mitigation

Typically, a site such as this that builds out over time has incremental mitigation applied to the uses as they are brought forward so that the supporting infrastructure can be constructed, upgraded and maintained appropriately for the land uses that are dependant on the travel ways to reach them. In-kind direct support, such as actual construction or upgrading of a roadway is one

form of mitigation; a partial contribution either at the time of permitting or a later date that is pre-determined and agreed to by parties is another form of mitigation. The range of these impacts vary but average, in the State of Arizona and within Cochise County, just slightly over \$7,000 per housing unit (for example, with a subdivision) or an equivalent commercial impact of about 10 vehicle trips per day. Following the standard formulas, that have routinely been upheld as reasonable by the Courts, the NTM site could be assessed as much as \$2.7 million in mitigation for their land use impacts on the county transportation system.

The NTM site has been in place and operational for over two decades. At present and into the foreseeable future the use of RV units is limited to several smaller groups of volunteers coming in for 2-3 weeks stays in both the Spring and the Fall. Visitor's average in the low 100's rather than the 1,000's although the potential for much higher use exists. Most of the residential units are permanently occupied and is in keeping with the residential areas east of the NTM site. This SUP modification is anticipating a slow, steady phased in growth over a period of years.

Recommendation

The NTM site has potential to continue to expand over time and Davis Rd. will need to be updated and improved to continue to adequately meet the needs of both NTM and the other residents living along this roadway. It will be critical to obtain sufficient right-of-way to be able to garner federal funds to rebuild this road in the future or alternatively, be able to assess NTM for the costs of reconstructing that portion of Davis Rd to their site.

It is therefore recommended that the applicant be asked to work with the County to convey up to 40 feet of right-of-way along the south side of their parcel to the County for the Davis Rd. alignment prior to Certificate of Occupancy for the six bedroom guesthouse and/or gymnasium. Currently about 33 feet of the NTM parcel is a declared county highway and required setbacks equal or exceed 10 feet beyond this: no part of the parcel actively being used for NTM activities will be needed for this dedication. The applicant may work with the County's Right-of-Way division to make this dedication (which will also remove this section of their parcel, currently being used as a public roadway, from their property tax assessment).

Any substantive new use on this site subject to another Special Use permit modification may need to submit a Traffic Impact Report for the full site to fully understand the traffic implications of both the residential and non-residential uses on Davis Rd. and to determine appropriate mitigation.

cc: Docket SUA-10-02



Aviation

NTM Aviation
3870 Davis Road
McNeal, AZ 85617 USA

www.ntm.org/ntmaviation

The aviation and radio branch of New Tribes Mission Inc., Sanford, FL

Phone: 1-520-642-9280

Fax: 1-520-642-9336

E-mail: ntmaviation@ntm.org

Cochise County Planning Department
1415 Melody Lane
Bisbee AZ 85603

Dear Planning Department,

We sent out 52 letters for the Citizen Review Process on February 12th. We received five positive responses. Three of these were phone calls, one was an e-mail and one was letter. Enclosed find a copy of the letter we received and a copy of the letter we sent out to all of our neighbors within 1500 feet of our property line.

There were no negative comments at this point.

Sincerely,

Walter Durfey for NTM Aviation





NTM Aviation

NTM Aviation
3870 Davis Road
McNeal, AZ 85617 USA

www.ntm.org/ntrnaviation

The aviation and radio branch of New Tribes Mission Inc., Sanford, FL

Phone: 1-520-642-9280

Fax: 1-520-642-9336

E-mail: ntmaviation@ntm.org

February 12, 2010

Dear friends & neighbors of NTM Aviation,

You are invited to submit comments on our request to change the use of our property. We are planning to build a 6 bedroom guest house that will be available to visiting friends and families of NTM Aviation personnel. It will be located at 3821 Volunteer St. on the NTM Aviation property. A gymnasium is also planned for interior recreation for NTM Aviation personnel and their families. It will be located on the north side of Attebury Drive on the property. Future plans also include 6 new homes for staff families in addition to the 25 homes already on the property. These homes will also be located on the NTM Aviation property at 3870 W. Davis Rd.

We would be happy to meet with you. Please let us know if you would like for us to arrange a meeting. Your input is important to us. We look forward to hearing from you.

Make sure your questions are answered:

Submit written comments to: NTM Aviation
Attn: Walter Durfey
3870 W. Davis Rd
McNeal AZ 85617

Email comments to: facilitymaintenance_ntma@ntm.org

To talk to a project representative call: (520)-642-6182

Sincerely,

Walter Durfey for NTM Aviation

Paul and Pat Dye
9314 N. Wynn Drive
McNeal, AZ. 85617

February 15th, 2010

Dear Friends of NTM Aviation...

We want to say that New Tribes Mission Aviation has been good neighbors to us and we are in favor of them changing the special use permit for their property to add more housing and a gymnasium that would meet their needs.

The presence of New Tribes Mission Aviation in this community has been an economical boost to Cochise County. We are pleased with the relationship we have with them down through these years.

New Tribes Mission Aviation is surely welcome in our community.

Sincerely...


Paul C. and Patricia Ann Dye

SPECIAL USE: Docket SUA-02-10 (NTM Aviation)

YES, I SUPPORT THIS REQUEST

Please state your reasons: NTM Aviation is situated across the fence from us, and have been good neighbors. NTM Aviation families as well as their guests, have contributed much to our community and to the county. Utilities, fuel, for both aviation and vehicle, building supplies and food are mostly all purchased in Cochise county, which helps our economy. We would not want to deny their children from the use of a gym constructed on their own property. The six bedroom guesthouse, where relatives of their families can stay close, when they visit, and the additional six single-family residences, for additional staff and trainees, would be a needed blessing for their operation. We would want to see the Special Use Permit be modified to meet their needs on their property. We all would benefit from this.

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: _____

(Attach additional sheets, if necessary)

PRINT NAME(S): PAUL C. DYE PATRICIA A. DYE
SIGNATURE(S): Paul C. Dye Patricia A. Dye

YOUR TAX PARCEL NUMBER: 404-19-001K (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 9314 N. Wynn Dr, McNeal, AZ / Mail: 3870 Davis Rd, McNeal, AZ, 85617

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on April 6, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline; however, if you miss the written comment deadline you may still make a statement at the pubic hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

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

Turisk, Mike

From: Larry Dye [larry_dye@ntm.org]
Sent: Thursday, April 01, 2010 10:27 PM
To: Turisk, Mike
Subject: Special Use: Docket SUA-02-10 (NTM Aviation)

SPECIAL USE: Docket SUA-02-10 (NTM Aviat

YES, I SUPPORT THIS REQUEST

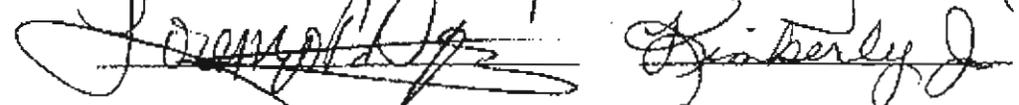
Please state your reasons: see attached she

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: _____

(Attach additional sheets, if necessary) April 1, 2010

PRINT NAME(S): Lorenzo P. Dye Kimberly J. D.

SIGNATURE(S): 

YOUR TAX PARCEL NUMBER: 404-19-00114 (the eight-digit identification number found on 1 from the Assessor's Office)

YOUR ADDRESS 9300 N Wynnw Drive. McNeesh

Special Use : Docket SUA-02-10 (NTM Aviation)

X **YES**, I SUPPORT THIS REQUEST

My reasons for doing so are as follows:

Reasons for Guest house:

- 1.-Have you ever tried to maintain and clean 40 year old mobile homes trailer versus maintain and clean a stable structure that's made to today's standard codes and regulations to accommodate guests?
- 2.-A six bedroom guesthouse would look so much better than six old mobile homes to accommodate the same amount of guests.
- 3.-This would benefit the economy by the savings of natural gas and electricity over the wasted resources from mobile home type structures.
- 4.- It would make our community more contemporary and look better. The town ship on McNeal is made up of a hodgepodge shanty mobile homes and tin made structures and olden day Quonset huts and wooden houses that are from the early 1940's and dump yards. One nice looking facility would not by any means cause an eyesore!
- 5.-It would save room for other facilities.
- 6.-If you were a guest of NTM Aviation you could stay in a new guest facility rather than an old Mobile Home. Believe me, I have been a guest and would have appreciated having a new guest facility to stay in!
7. Less fire hazards.

Reasons for the Gymnasium:

- 1.-People could have a place out of the harsh environment of the desert to participate in sports of all kinds and exercise.
- 2.-Balls wouldn't go flat from the thorns when you play outside.
- 3.- More Community development when guest are invited to use and participate in the gym.
- 4.-More things for young people to do rather than being bored and getting into trouble.
5. Would stimulate better health, opportunities, competition, and development of skilled athletes by having a gym to participate at.
- 6.-Less stress, cause of worry and anxiety from drug runners who prowl and travel through by knowing that your children are under better protection than being away at some other places that you don't have any control of.
7. If you knew you could use a gym rather than having to seek activity outside in the sun where the rattle snakes live in abundance.
- 8.-Volleyball nets, basketball hoop/nets and tennis nets wouldn't dry rot in such a short time from the Sun and wind.

Printed Names:

Lorenzo P. Dye

Kimberly J. Dye

Tax Parcel Number: 404-19-001H

Address: 9300 N Wynn Drive, McNeal AZ, 85617

SPECIAL USE: Docket SUA-02-10 (NTM Aviation)

YES, I SUPPORT THIS REQUEST

Please state your reasons: As we understand it NTMA
is not really adding that many houses but
rather replacing their old house trailers w/
houses. The gym should be great for them.
NTMA has always been great
neighbors.

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: _____

(Attach additional sheets, if necessary)

PRINT NAME(S): Joe Lane McClure Josefina McClure
SIGNATURE(S): Joe Lane McClure Josefina McClure

YOUR TAX PARCEL NUMBER: 40419001 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 9296 N. Wynn Dr. McNeal AZ 85617

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on April 6, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline; however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Michael Turisk
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603
Email: mturisk@cochise.az.gov
Fax: (520) 432-9278

SPECIAL USE: Docket SUA-02-10 (NTM Aviation)

YES, I SUPPORT THIS REQUEST

Please state your reasons:

New Rules Mission Aviation has been a real asset to our community. I am for any improvement to the local NTM. It has very clean, orderly, beautiful grounds and buildings. They need to replace old trailers and a sign for the family's as we are away from any entertainment or parks.

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S):

Patsy L. Rineer

SIGNATURE(S):

Patsy L. Rineer

YOUR TAX PARCEL NUMBER: 404-21-022 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 9117 Hwy 191 to Neal, AZ 85617

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on April 6, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline; however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Michael Turisk

Cochise County Planning Department

1415 Melody Lane, Building E

Bisbee, AZ 85603

Email: mturisk@cochise.az.gov

Fax: (520) 432-9278

COCHISE COUNTY

PLANNING DEPARTMENT

PLANNING DEPARTMENT

SPECIAL USE: Docket SUA-02-10 (NTM Aviation)

YES, I SUPPORT THIS REQUEST

Please state your reasons:

IT WOULD FACILITATE
NTMA PERSONEL AND WOULD
NOT IN ANY WAY INTERFERE WITH
ANYONE IN THE LOCAL AREA

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S):

SCOTT M WOLFE MARY M WOLFE

SIGNATURE(S):

Scott M. Wolfe Mary M. Wolfe

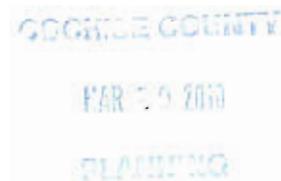
YOUR TAX PARCEL NUMBER: 404-19-001E 1 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS

9286 WYNN DRIVE, MCNEAL AZ
85617

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on April 6, 2010 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline; however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Michael Turisk
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603
Email: mturisk@cochise.az.gov
Fax: (520) 432-9278



Jackie Julian

2019-04-14 10:00 AM
2019-04-14 10:00 AM

Cochise County Planning Dept.

PLANNING AND ZONING

1000 W. WASHINGTON

To Whom it May Concern:

My Name is Jackie Julian. It has come to my attention that the Cochise County Planning and zoning commission will hold a public hearing on April 14 regarding an application by New Tribes Mission Aviation (NTMA) for a modification of a Special Use Permit, allowing NTMA to construct a guesthouse, additional residences and private gymnasium. Also, that property owners within 1500 feet of the site are being advised of the situation and of their opportunity to comment.

As trustee of the "Eleanor June Wynn Revocable Trust" I have an interest in the following parcels of land (150+ acres) adjacent to the land owned by NTMA:

- 404-19-001B
- 404-19-001R
- 404-19-00-1Q
- 404-21-014E
- 404-21-038
- 404-21-039
- 404-21-040
- 404-21-041
- 404-21-042
- 404-21-059
- 404-21-065
- 404-21-064B

I wholeheartedly support NTMA's request to modify Special Use Permit SU-91-06. NTMA is an asset to this community, and has been an excellent neighbor to my property. It is in the best interests of the community to support their development. The nature of NTMA's operational needs has required them to operate under special zoning rules. This has never interfered with the use or enjoyment of my own property, though, I am aware of other neighbors, with much less adjoining land than myself, who have tried to make organizational life very difficult for NTMA.

Please grant NTMA's application to modify their Special Use Permit.

S
i
n
c
e

rely,

Jackie Julian

Power of Attorney for Eleanor Wynn
Trustee, Eleanor June Wynn Revocable Trust
4/5/2010



COCHISE COUNTY PLANNING DEPARTMENT

1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240

Fax 432-9278

TO: Planning & Zoning Commission

FROM: Rick Corley, Zoning Administrator

FOR: Benny J. Young, P.E., Planning Director

DATE: April 6, 2010 for the April 14, 2010 Study Session

SUBJECT: Docket R-09-02, County Hazard Abatement Ordinance—amendment to the whole.

I. Background

Under ARS 11-268 (see attachment A) the State legislature gives counties the authority to abate hazards, establish a payment schedule for property owner to reimburse the County for abatement expenses, and place liens on properties to recoup County expenses when not voluntarily repaid by the owner(s). There has been a hazard abatement ordinance (Resolution 84-65) in effect in the County since October 19, 1984; this was amended in 1991 (Resolution 87-91) to allow liens to be placed on properties on which the County abated hazards. However, liens have not routinely been placed on properties. On June 11th, 2009, the Board of Supervisors gave staff direction to update Resolution 87-91 to reflect current County staffing and policies, and to provide a systematic approach to recovering County funds via the lien process.

Attachment B is the proposed Hazard Abatement Ordinance which is intended to simplify and clarify definitions and processes while meeting the new requirements of Statute ARS 11-268:

II. Revisions to Hazard Abatement Ordinance Resolution 87-91:

Please note that the proposed Ordinance is an amendment to the whole of the currently adopted Ordinance. The entire Ordinance is new and would replace the existing Ordinance. Therefore, deletions from the 1987 Ordinance are not noted by strike-through text and additions are not noted by underlined text.

Differences between the 1987 Ordinance and the proposed Ordinance:

Chapter 1 Purpose and Scope of the 1987 Ordinance is deleted.

Chapter 2 of the 1987 Ordinance is now "Part I: DEFINITIONS" instead of ENFORCEMENT. The Ordinance deleted two definitions and added fifteen new definitions for clarity. The definitions chapter has been moved ahead the enforcement chapter for reader clarity.

Part 1 of the proposed Ordinance consists of definitions. Note that a public nuisance is defined as

accumulations of trash, etc., that constitutes a public health hazard. Violations are accumulations that have arisen to the level of health hazard.

Chapters 4 through 8 of the 1987 Ordinance have been streamlined and included in a new Part II which describes the definitions and processes for violations, notices of abatement orders, appeals of the notices of abatement orders, and the material removal process.

Part 2 is the main part of the proposed Ordinance, it establishes at subparagraph (noted below):

- A, that dumping on your private land, public land or other private land is a violation; that dumping on public or others' land is also a class 1 misdemeanor;
- At subparagraphs B & C, those cited have 30 days to remove;
- D spells out what is to be in the order, including an estimate of cost of clean-up, and notice that appeal must be taken within 15 days;
- E provides the appeal process, hearing before board set within reasonable time (arbitrary deadlines difficult for scheduling, political pressure will force earliest reasonable time);
- F spells out the process if the owner doesn't appeal (appeal stays enforcement per E.4) or abate; two estimates are required, the county goes with lowest responsible bid as the charge, even if county does the work;
- G establishes that the actual cost of abatement becomes the amount of the assessment against the subject property;
- H provides for notice of assessment and a chance to appeal;
- I establishes the appeal right;
- J provides for a report of assessment as a basis for imposition of assessment. This must be approved by the Board before being established as an assessment;
- K establishes a right to hearing on the assessment;
- L establishes that in the end, upon recordation, the assessment takes effect;
- M establishes that the assessment also constitutes a lien against the property;
- N notes that the county may foreclose on the lien by forcing a sale;
- O establishes that more than one assessment may be imposed on the same property over time, for multiple violations;
- P gives the Board of Supervisors the option of appointing a hearing examiner to hear all or some appeals, and
- Q establishes the schedule for collection of assessments established by the legislature, incorporation of which in this ordinance was the motivating force behind this revision.

Chapter 3 of the 1987 Ordinance is now ENFORCEMENT instead of DEFINITIONS.

Part 3 of the proposed Ordinance reiterates that wildcat dumping is a misdemeanor, independent of any other enforcement provisions of this ordinance.

Part 4 notes that any remedies in the ordinance are in addition to any other enforcement measures that may be imposed under law.

III. Recommendation

Staff seeks guidance from the Commission at the study session as to what features of the Hazard Abatement Ordinance and program they would like to bring back to the Commission in May 2010 for their consideration as an ordinance to forward to the Board of Supervisors for their consideration with a recommendation of approval.

Attachment A: ARS 11-268 State Statute

Attachment B: March 23 2010 proposed Hazard Abatement Ordinance—an amendment to the whole

Attachment C: 1987 Resolution 87-91, current adopted Hazard Abatement Ordinance

11-268. Removal of rubbish, trash, weeds, filth, debris and dilapidated buildings; violation; classification; removal by county; costs assessed; collection; priority of lien; definition

A. The board of supervisors, by ordinance, shall compel the owner, lessee or occupant of buildings, grounds or lots located in the unincorporated areas of the county to remove rubbish, trash, weeds, filth, debris or dilapidated buildings which constitute a hazard to public health and safety from buildings, grounds, lots, contiguous sidewalks, streets and alleys. Any such ordinance shall require and include:

1. Reasonable written notice to the owner, any lienholder, occupant or lessee. The notice shall be given not less than thirty days before the day set for compliance and shall include the estimated cost to the county for the removal if the owner, occupant or lessee does not comply. The notice shall be either personally served or mailed by certified mail to the owner, occupant or lessee at his last known address, or the address to which the tax bill for the property was last mailed. If the owner does not reside on the property, a duplicate notice shall also be sent to the owner at the owner's last known address.

2. Provisions for appeal to the board of supervisors on both the notice and the assessments.

3. That any person, firm or corporation that places any rubbish, trash, filth or debris upon any private or public property located in the unincorporated areas of the county not owned or under the control of the person, firm or corporation is guilty of a class 1 misdemeanor and, in addition to any fine which may be imposed for a violation of any provision of this section, is liable for all costs which may be assessed pursuant to this section for the removal of the rubbish, trash, filth or debris.

B. The ordinance may provide that if any person with an interest in the property, including an owner, lienholder, lessee or occupant of the buildings, grounds or lots, after notice as required by subsection A, paragraph 1, does not remove the rubbish, trash, weeds, filth, debris or dilapidated buildings and abate the condition which constitutes a hazard to public health and safety, the county may, at the expense of the owner, lessee or occupant, remove, abate, enjoin or cause the removal of the rubbish, trash, weeds, filth, debris or dilapidated buildings.

C. The board of supervisors may prescribe by the ordinance a procedure for such removal or abatement and for making the actual cost of such removal or abatement, including the actual costs of any additional inspection and other incidental costs in connection with the removal or abatement, an assessment upon the lots and tracts of land from which the rubbish, trash, weeds, filth, debris or dilapidated buildings are removed.

D. The ordinance may provide that the cost of removal, abatement or injunction of the rubbish, trash, weeds, filth, debris or dilapidated buildings from any lot or tract of land located in the unincorporated areas of the county and associated legal costs be assessed in the manner and form prescribed by ordinance of the county upon the property from which the rubbish, trash, weeds, filth, debris or dilapidated buildings are removed, abated or enjoined. The county shall record the assessment in the county recorder's office in the county in which the property is located, including the date and amount of the assessment and the legal description of the property. Any assessment recorded after the effective date of this amendment to this section is prior and superior to all other liens, obligations or other encumbrances, except liens for general taxes and prior recorded mortgages. A sale of the property to satisfy an assessment obtained under this section shall be made on judgment of foreclosure and order of sale. The county may bring an action to enforce the lien in the superior court in the county in which the property is located at any time after the recording of the assessment, but failure to enforce the lien by such action does not affect its validity. The recorded assessment is prima facie evidence of the truth of all matters recited in the assessment and of the regularity of all proceedings before the recording of the assessment.

E. Assessments that are imposed under subsection D run against the property until they are paid and are due and payable in equal annual installments as follows:

1. Assessments of less than five hundred dollars shall be paid within one year after the assessment is recorded.
 2. Assessments of five hundred dollars or more but less than one thousand dollars shall be paid within two years after the assessment is recorded.
 3. Assessments of one thousand dollars or more but less than five thousand dollars shall be paid within three years after the assessment is recorded.
 4. Assessments of five thousand dollars or more but less than ten thousand dollars shall be paid within six years after the assessment is recorded.
 5. Assessments of ten thousand dollars or more shall be paid within ten years after the assessment is recorded.
- F. A prior assessment for the purposes provided in this section is not a bar to a subsequent assessment or assessments for such purposes, and any number of liens on the same lot or tract of land may be enforced in the same action.
- G. Before the removal of a dilapidated building the board of supervisors shall consult with the state historic preservation officer to determine if the building is of historical value.
- H. If a county removes a dilapidated building pursuant to this section, the county assessor shall adjust the valuation of the property on the property assessment tax rolls from the date of removal.
- I. As used in this section occupant does not include any corporation or association operating or maintaining rights-of-way for and on behalf of the United States government, either under contract or under federal law.
- J. As used in this section, "dilapidated building" means any real property structure that is in such disrepair or is damaged to the extent that its strength or stability is substantially less than a new building or it is likely to burn or collapse and its condition endangers the life, health, safety or property of the public.

B

ORDINANCE 10 –

REQUIRING AN OWNER, LESSEE, OR OCCUPANT OF REAL PROPERTY WITHIN THE UNINCORPORATED AREA OF COCHISE COUNTY TO REMOVE RUBBISH, TRASH, WEEDS, FILTH, DEBRIS AND DILAPIDATED BUILDINGS CONSTITUTING A PUBLIC NUISANCE; PRESCRIBING THE PROCEDURE FOR NOTICE AND APPEAL; PROVIDING FOR THE REMOVAL THEREOF BY THE COUNTY AND THE ASSESSMENT OF THE COST THEREOF AS A LIEN AGAINST THE PROPERTY IN THE EVENT OF NON-COMPLIANCE; AND PRESCRIBING A PENALTY FOR THE PLACEMENT OF SUCH MATERIALS ON THE PROPERTY OF ANOTHER, ALL PURSUANT TO AUTHORITY OF A.R.S. § 11-268.

[Note: Where a provision is required or authorized by statute, the relevant statute section number is indicated in brackets.]

PART 1: DEFINITIONS

As used herein, bold-faced terms shall have the following meaning:

1. **“Board”** means the Cochise County Board of Supervisors.
2. **“Building”** means any real property structure, movable or immovable, permanent or temporary, vacant or occupied, used (or of a type customarily used) for human lodging or business purposes, or where livestock, produce, or personal or business property is located, stored or used.
3. **“Contiguous Sidewalks, Streets and Alleys”** means any sidewalk, street, or alley, public or private, adjacent to the edge or boundary, or touching on the edge or boundary, of any real property.
4. **“County”** means the unincorporated areas of Cochise County.
5. **“Dilapidated Building”** means any building in such disrepair, or damaged to such an extent, that its strength or stability is substantially less than a new building, or that is likely to burn or collapse, and the condition of which endangers the life, health, safety, or property of the public as determined by the Hazard Abatement Officer.
6. **“Grounds”** means any private or public land, vacant or improved.
7. **“Hazard Abatement Officer”** means the County employee(s) or other person(s) designated to discharge the duties of the County pursuant to this ordinance unless otherwise expressly provided herein.
8. **“Lessee”** means a person who has the right to possess real property pursuant to a lease, rental agreement, or similar instrument.

9. **“Lots”** means any plot or quantity of land, vacant or improved, private or public, as surveyed, platted or apportioned for sale or any other purpose.
10. **“Occupant”** means a person who has the actual use, possession or control of real property. The term does not include any corporation or association operating or maintaining right-of-way for and on behalf of the United States government, either under contract or federal law. [A.R.S. § 11-268.I]
11. **“Owner”** means a person who is a record owner of real property as shown in the public records in the office of the Cochise County Recorder, and includes a person holding equitable title under a recorded installment sales contract, contract for deed or similar instrument.
12. **“Person”** means an individual, partnership, corporation, association, trust, state, municipality, political subdivision, or any other entity that is legally capable of owning, leasing, or otherwise possessing real property.
13. **“Public nuisance”** means a dilapidated building or an accumulation of rubbish, trash, weeds, filth or debris that constitutes a hazard to the public health and safety as determined by the Hazard Abatement Officer.
14. **“Real Property”** means buildings, grounds, or lots, as well as contiguous sidewalks, streets, and alleys, located in the County.

PART II: VIOLATION OF ORDINANCE; REMOVAL OF PUBLIC NUISANCE BY OWNER, LESSEE OR OCCUPANT; SERVICE OF NOTICE TO ABATE; REMOVAL BY COUNTY; ASSESSMENT OF COSTS; RECORDATION AND PRIORITY OF LIEN.

- A. **Violation.** A person, firm or corporation shall have created a public nuisance and committed a violation of this ordinance if such person, firm or corporation without lawful authority:
 1. Places, permits, or provides for rubbish, trash, weeds, filth, debris or dilapidated buildings to remain upon property located in the County of which they are owner, lessee, or occupant. [A.R.S. § 11-268.A]
 2. Places, permits, or provides for rubbish, trash, weeds, filth, debris or dilapidated buildings to remain upon contiguous sidewalks, streets and alleys in the County which are dedicated and open to the public. [A.R.S. § 11-268.A]
 3. Places, permits, or provides for rubbish, trash, weeds, filth, debris or dilapidated buildings to remain upon any other private or public property in the County not owned or under the control of the person, firm or corporation. [A.R.S. § 11-268.A.3]

- B. Duty to remove.** A person, firm or corporation shall remove or otherwise abate a public nuisance as defined herein within 30 calendar days after mailing or personal service of a Notice and Order to Abate as provided herein. [A.R.S. § 11-268.A.1]
- C. Notice and Order to Abate.** Upon reasonable belief that a violation of this ordinance has occurred, the Hazard Abatement Officer shall issue a notice in writing which shall be served in person or by certified mail upon the owner, occupant or lessee at their last known address or at the address on file in the County Treasurer's Office to which the most recent tax bill was mailed. If the owner does not reside on the property, a copy of the notice shall be served upon the owner in person or by certified mail to the owner's last known address. Failure by any party to receive the notice shall not be a bar to abatement, assessment of costs or lien of assessment pursuant to this Ordinance. [A.R.S. § 11-268.A.1]
- D. Notice and Order.** The Notice and Order to Abate shall include the following:
1. The street address and a legal description sufficient for identification of the premises on which the alleged violation occurred.
 2. A statement that the Hazard Abatement Officer has determined that there is a reasonable belief that a violation of this ordinance has occurred on the premises identified in the notice.
 3. An order that the owner, occupant or lessee shall have thirty (30) days from the date of mailing or personal service of the order to remove any rubbish, trash, weeds, filth, debris or dilapidated buildings upon the property or upon contiguous sidewalks, streets or alleys.
 4. A statement that rubbish, trash, weeds, filth debris or dilapidated building materials must be disposed of at an appropriate waste collection facility or by other legal means and that a tipping fee receipt or other evidence of legal disposal is to be submitted to the Hazard Abatement Officer prior to a determination of compliance with the Notice and Order to Abate.
 5. A statement that the County may cause the violation to be abated if the owner, occupant or lessee fails to comply with the order within the specified compliance period.
 6. An estimate of the cost of removal or abatement by the County, including incidental costs, to be based on an estimate provided by a qualified contractor or by the Hazard Abatement Officer. [A.R.S. § 11-268.A.1]
 7. A statement that the owner, occupant or lessee shall have fifteen (15) days from mailing or personal service of the Notice and Order to Abate to appeal the issuance of the notice to the Board of Supervisors and that failure to appeal will

constitute waiver of all rights to an administrative hearing and determination of the matter.

8. A statement that a party who places any rubbish, trash, filth or debris upon any private or public property located in the unincorporated area of the county that is not owned or controlled by that party is guilty of a Class 1 misdemeanor and may be subject to criminal penalties in addition to the cost of abatement. [A.R.S. § 11-268.A.3]

E. Appeal of Notice and Order to Abate. Any person receiving a Notice and Order to Abate may appeal to the Board of Supervisors as follows[A.R.S. § 11-268.A.2]:

1. **Notice of Appeal.** A written Notice of Appeal shall be filed with the Clerk of the Board within fifteen (15) days after the Notice and Order to Abate was mailed or personally served. The date of receipt by the Board shall be the date of filing.
2. **Contents of Notice of Appeal.** The Notice of Appeal shall state in reasonable detail why the appellants should not be required to comply with the Notice and Order to Abate.
3. **Hearing on Appeal.** Upon receipt of the Notice of Appeal, the Board shall, within a reasonable time, place the matter on the agenda at a regular meeting or, if the Board has appointed a hearing officer pursuant to Paragraph II.P, refer the appeal to the hearing officer. The Hazard Abatement Officer shall appear and present evidence of the existence of the Public Nuisance. The appellant may present evidence controverting the existence of the Public Nuisance. The hearing shall be informal and without regard to the rules of procedure or evidence governing court proceedings. The Board shall decide the appeal, and its decision shall be final.
4. **Extension of Time for Compliance.** If the Board's decision is adverse to the appellant, the date of compliance set forth in the Notice and Order to Abate shall be extended by the number of days elapsed between the filing of the notice of Appeal and the rendering of the Board's decision.

F. Removal by Board. If the owner, lessee or occupant fails to remove or otherwise abate the Public Nuisance within thirty (30) days of mailing or personal service of the Notice and Order to Abate (or such extension thereof as may be granted in writing by the Board), the Board or its designee may, at the expense of the owner, lessee or occupant, order removal or abatement of the Public Nuisance or cause it to be removed or abated; provided, however, that if such removal or abatement is not undertaken within one hundred and eighty (180) days after the right to do so first accrues, a new Notice and Order to Abate shall be served as provided in Paragraph II.C. [A.R.S. § 11-268.B]

1. **Cost of Removal.** The costs assessed for removal or abatement shall not exceed the actual costs and incidental expenses thereof. Before undertaking the actual

removal or abatement, the Hazard Abatement Officer shall attempt to obtain at least two written estimates from qualified contractors (if available locally) and shall accept the lowest such estimate that is otherwise satisfactory to the County. In the alternative, the removal may be performed by Cochise County personnel, and the actual cost shall be deemed to be the same as the lowest estimate obtained from a qualified contractor as determined herein. [A.R.S. § 11-268.C]

2. **Historical Review.** Before the removal of a dilapidated building, the Board shall consult with the state historic preservation officer to determine if the building may be of historical value. [A.R.S. § 11-268.G]
3. **Removal from Tax Rolls.** Upon the removal of a dilapidated building, the County Assessor shall adjust the valuation of the Real Property on the property assessment tax roll from the date of removal. [A.R.S. § 11-268.H]

G. Assessment. Upon the removal or abatement of Public Nuisance as provided in Paragraph II.F, the actual cost of removal or abatement, together with the actual cost of any additional inspections and other incidental costs, shall be an Assessment against the Real Property on which the Public Nuisance was located. [A.R.S. § 11-268.C]

H. Notice of Assessment. A written Notice of Assessment shall be served in the same manner as the Notice and Order to Abate. The Notice of Assessment shall list the common address, legal description and tax parcel number of the property. The Notice of Assessment shall set forth the facts supporting it as well as an itemized listing of the actual cost of removal or abatement, the actual costs of any additional inspections and other incidental costs. The Notice shall state that the entire cost is due and payable in full not later than thirty (30) days from the date of issuance of the Notice and that the assessment will become delinquent as of that date. The Notice shall be signed by the Hazard Abatement Officer. The Notice shall also contain the following statement in bold face print:

NOTICE: THIS NOTICE OF ASSESSMENT PURSUANT TO A.R.S. § 11-268 SHALL CONSTITUTE A LIEN UPON THE PROPERTY DESCRIBED IN THE NOTICE IN FAVOR OF COCHISE COUNTY. THE COUNTY MAY TAKE LEGAL ACTION TO FORCECLOSE THE LIEN AND SELL THE PROPERTY DESCRIBED TO RECOVER THE COSTS STATED IN THE NOTICE OF ASSESSMENT.

The Notice of Assessment shall indicate that the owner, lessee or occupant shall have fifteen (15) days from the date of the mailing or personal service of the Notice of Assessment to appeal the amount of the assessment imposed by the County.

I. Appeal of Notice of Assessment. All appeals of assessments shall be in writing and shall specify the grounds for appeal of the assessment. The date of receipt of the Notice of Appeal by the Board shall be the date of filing. No appeals of violations shall be heard upon appeal of an assessment. [A.R.S. § 11-268.A.2]

J. Report of Assessment. If an appeal of the Notice of Assessment is not timely filed, the Hazard Abatement Officer shall prepare a Report of Assessment for consideration by the Board of Supervisors. The Report shall list the common address, legal description and tax parcel of the property. The Report of Assessment shall set forth the facts supporting it as well as an itemized listing of the actual cost of removal or abatement, the actual cost of any additional inspections and other incidental costs. Upon acceptance of the Report by the Board, it shall be signed by the Chairman and thereafter, upon recordation pursuant to Paragraph II.L, become a lien of assessment against the property.

K. Hearing on Appeal. Upon receipt of the Notice of Appeal of Assessment, the Board shall, within a reasonable time, place the matter on the agenda at a regular meeting or, if the Board has appointed a hearing officer pursuant to Paragraph II.P of this ordinance, refer the appeal to the hearing officer. Written notice of the hearing shall be provided to the Hazard Abatement Officer, to other appropriate County departments and to the Appellant. The Hazard Abatement Officer shall appear and present the facts supporting the assessment as well as an itemized listing of the actual cost of removal or abatement, the costs of any additional inspections and other incidental costs. The Appellant may present evidence controverting the imposition of the assessment. The Board shall determine whether the assessment was made in accordance with the provisions of this ordinance and applicable state statutes, and whether the amount of the assessment is sufficient to cover the actual costs of abatement and related activities. After hearing all of the evidence presented, or after reviewing recommendations made by its hearing officer, the Board shall issue its findings in writing upholding or modifying the amount of the assessment. The decision of the Board of Supervisors shall be final.

L. Recordation. If the owner, lessee or occupant fails to pay the assessment within thirty (30) calendar days after receipt of the Notice of Assessment (or any extension as may have been granted in writing by the County), and fails to timely appeal the assessment, that assessment shall be delinquent and may be recorded in the office of the Cochise County Recorder, upon preparation and approval of a Report of Assessment pursuant to Paragraph II.J. If a Notice of Assessment is appealed to the Board and the assessment is sustained in whole or in part in a written decision by the Board, and the owner, lessee or occupant fails to pay the amount of the assessment ordered by the Board within thirty (30) calendar days after receipt of the Board's decision, the assessment shall be delinquent and may be recorded in the office of the Cochise County Recorder. [A.R.S. § 11-268.D]

M. Lien of Assessment. The assessment shall be a lien against the real property from and after the date of recordation and shall accrue interest at the statutory judgment rate until paid. The lien of assessment shall be subject to and inferior to all prior recorded mortgages and encumbrances and to such other liens as specifically provided by law. [A.R.S. § 11-268.D]

N. Foreclosure. The Board may, but shall not be obligated to, bring an action to enforce the assessment lien in the Cochise County Superior Court at any time after the recordation of

the assessment. The recorded assessment is prima facie evidence of the truth of all matters recited therein and of the regularity of all proceedings before the recordation thereof.

- O. Subsequent Assessments.** A prior assessment shall not constitute a bar to a subsequent assessment or assessments for such purposes and any number of liens may be recorded and may be enforced in the same or separate actions by the County. [A.R.S. § 11-268.F]
- P. Hearing Officer; Appointment and Duties.** In fulfilling the responsibilities required of the Board of Supervisors pursuant to this ordinance, the Board may, by a majority vote of its members, appoint a hearing officer to review appeals of Notices to Abate and/or Notices of Assessment. The hearing officer shall hold hearings and take testimony, make findings and prepare recommendations to be reported for action by the Board of Supervisors.
- Q. Assessment schedule.** Assessments that are imposed pursuant to this ordinance run against the property until they are paid, and are due and payable in equal annual installments as follows [A.R.S. § 11-268.E]:
1. Assessments of less than five hundred dollars (\$500.00) shall be paid within one year after the assessment is recorded;
 2. Assessments of five hundred dollars (\$500.00) or more but less than one thousand dollars (\$1,000.00) shall be paid within two years after the assessment is recorded;
 3. Assessments of one thousand dollars (\$1,000.00) or more but less than five thousand dollars (\$5,000.00) shall be paid within three years after the assessment is recorded;
 4. Assessments of five thousand dollars (\$5,000.00) or more but less than ten thousand dollars (\$10,000.00) shall be paid within six years after the assessment is recorded;
 5. Assessments of ten thousand dollars (\$10,000.00) or more shall be paid within ten years after the assessment is recorded.

PART III: ADDITIONAL PENALTIES

- A. Classification; Liability.** In addition to the penalties imposed pursuant to the abatement and assessment provisions of this ordinance, any person, firm or corporation placing any rubbish, trash, filth or debris upon any private or public property located in the unincorporated areas of the county not owned or under the control of the person, firm or corporation shall be guilty of a Class 1 misdemeanor and, in addition to any fine which may be imposed for a violation of any provision of this ordinance, shall be liable for all costs which may be assessed pursuant to this ordinance for the removal of the rubbish, trash, filth or debris. [A.R.S. § 11-268.A.3]

PART IV: NON-EXCLUSIVE REMEDY

The remedies provided for in this ordinance shall be in addition to any and all other remedies, civil or criminal, available to Cochise County pursuant to statute and common law, specifically including those set forth in A.R.S. §§ 13-2908, 36-602 and 49-143.

PASSED AND ADOPTED THIS ___ DAY OF _____, 2010.

Ann English, Chairman
Cochise County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Katie A. Howard
Clerk of the Board

Adam Ambrose
Deputy County Attorney

V.L THOMPSON, Benson
Chairman

DAVID S. HUNT
Administrator/Clerk



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no fee

JUDITH A. GIGNAC, Sierra Vista

ANN ENGLISH, Mc Neal

County of Cochise

BOARD OF SUPERVISORS

P.O. BOX 225
BISBEE, ARIZONA 85603
(602) 432-5703

RESOLUTION NO. 87-91

A RESOLUTION OF THE BOARD OF SUPERVISORS OF COCHISE COUNTY AMENDING THE PREVIOUSLY ADOPTED COCHISE COUNTY HAZARD ABATEMENT ORDINANCE

WHEREAS, A.R.S. §11-268 empowers counties to compel the removal of rubbish, trash, weeds, filth, debris and dilapidated and dangerous buildings which constitute a hazard to public health and safety from buildings, lots, grounds, contiguous sidewalks, streets and alleys; and

WHEREAS, by Resolution, The Board of Supervisors adopted an ordinance known as "The Cochise County Hazard Abatement Ordinance" which became effective September 17, 1984;

WHEREAS, a properly noticed public hearing was conducted prior to enactment of the proposed amendments;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

That the Cochise County Board of Supervisors herein amends the Ordinance known as "The Cochise County Hazard Abatement Ordinance" to read as set forth in Exhibit "A," attached hereto and incorporated herein by this reference.

BE IT FURTHER RESOLVED that the Cochise County Planning Director is hereby re-designated as Cochise County Hazard Abate-

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ment Officer.

UPON MOTION DULY MADE, SECONDED AND CARRIED, this Resolution is passed and adopted in open meeting this 8th day of September, 1987.

COCHISE COUNTY BOARD OF SUPERVISORS

By: *[Signature]*
Chairman

COCHISE COUNTY

HAZARD ABATEMENT ORDINANCE

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Chapter 1

TITLE AND SCOPE

TITLE:

Section 101. These regulations shall be known as the "Cochise County Hazard Abatement Ordinance"; and may be cited as such and will be referred to herein as "this ordinance".

PURPOSE AND SCOPE:

Section 102. (a) PURPOSE: It is the purpose of this ordinance to provide a just, equitable and practicable method to be cumulative with and in addition to, any other remedy of Cochise County, which may be otherwise available at law, whereby any rubbish, trash, weeds, filth, debris or damaged and dilapidated buildings which constitute a hazard to public health and safety may be compelled to be removed from buildings, grounds, lots, contiguous sidewalks, streets and alleys, located within the unincorporated area of Cochise County.

(b) SCOPE: The provisions of this ordinance shall apply to all hazardous conditions as herein defined, which are now in existence or which may hereafter become dangerous in this jurisdiction.

Chapter 2

ENFORCEMENT

GENERAL:

Section 201. (a) ADMINISTRATION: The position of hazard abatement officer is hereby created, said officer being herein authorized to enforce the provisions of this ordinance.

(b) INSPECTIONS: The health officer, representative of fire district if one is established, and the hazard abatement officer and their authorized representatives are hereby authorized to make such inspections as may be required to enforce the provisions of this ordinance. The Hazard Abatement Officer or his authorized representative may take such actions as may be required to carry out the provisions of this Ordinance.

(c) RIGHT OF ENTRY: Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the hazard abatement officer or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition which makes such buildings or premises unsafe, dangerous or hazardous, the hazard abatement officer or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the hazard abatement officer by this ordinance, provided that if such building or premises be occupied, he shall first present proper credentials and request entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the hazard abatement officer or his authorized representative shall have recourse to every remedy provided by law to secure entry.

When the hazard abatement officer or his authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the hazard abatement officer or his authorized representative for the purpose of inspection and examination pursuant to this ordinance.

"Authorized representative" shall include the officers named in Section 201(b) and their authorized inspection personnel.

COMMENTARY:1/ In order for the hazard abatement officer (or his representative) to make an inspection, he must have "reasonable cause to believe" that there exists rubbish, trash, weeds, filth, or debris in or on a building or premises, or a dilapidated and dangerous building, which creates a condition which is unsafe, dangerous, or hazardous. Generally, the inspection will result from a complaint which he has received, or by observation of a condition that appears so dangerous that following up with an inspection is reasonable. It is not intended that the officer travel all over the county searching for hazardous conditions. Also, if the officer is not given permission by the owner to inspect, the officer must get a court warrant to inspect the property, and this requires him to make a showing of reasonable cause to the court.

BOARD OF APPEALS:

Section 202. In order to provide for final interpretation of the provisions of this ordinance and to hear appeals provided for hereunder, there is hereby established a Board of Appeals consisting of the Board of Supervisors. The Board shall adopt reasonable rules and regulations for conducting its business and shall render all decisions and findings in writing to the appellant, with a copy to the hazard abatement officer. Appeals to the Board shall be processed in accordance with the provisions contained in Section 501 of this ordinance. Copies of all rules or regulations adopted by the Board shall be delivered to the hazard abatement officer who shall make them freely accessible to the public.

1/ Commentaries serve as a guide in interpreting and carrying out the text of the ordinance.

Chapter 3

DEFINITIONS

GENERAL:

Section 301. For the purpose of this ordinance, certain terms, phrases, words and their derivatives shall be construed as specified in this chapter. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language Unabridged, copyright 1961, shall be construed as providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

"Board of Appeals": The Board of Supervisors shall constitute the Board of Appeals for all appeals pursuant to this ordinance.

"Debris": The definition of debris in addition to its ordinary accepted meaning, shall include accumulations of combustible or flammable materials which are determined by the hazard abatement officer to constitute a hazard to public health or safety.

Chapter 4

REMOVAL OF RUBBISH, TRASH, FILTH, WEEDS, DEBRIS OR DILAPIDATED AND DANGEROUS BUILDINGS

REQUIREMENT FOR REMOVAL:

Section 401. When rubbish, trash, weeds, filth or debris, are accumulated on or in buildings, grounds, lots, contiguous sidewalks, streets or alleys and the hazard abatement officer determines that the accumulation or condition constitutes a hazard to public health and safety, or if the hazard abatement officer determines that a dilapidated and dangerous building constitutes a hazard to public health or safety, the hazard abatement officer may require the owner, lessee or occupant of buildings, grounds or lots located in unincorporated areas of the County to remove such rubbish, trash, weeds, filth, debris or dilapidated and dangerous building.

NOTICE OF VIOLATION:

Section 402. The hazard abatement officer shall provide formal written notice of the alleged violation to the owner, occupant or lessee of the subject premises not less than thirty (30) days prior to the date set for compliance. Such notice shall include the estimated cost to the County to remove, and advise the owner, occupant or lessee that if the county removes the rubbish, trash, weeds, filth, debris or dilapidated and dangerous building, said expense shall be assessed to said owner, occupant or lessee. Said notice shall be either personally served or mailed to the owner, occupant or lessee at his last known address by certified mail, or the address to which the tax bill for the property was last mailed. If the owner does not reside on the property, a duplicate notice shall also be sent to the owner at the owner's last known address.

REMOVAL BY COUNTY:

Section 403. If, after notice, and after the specified date of compliance, the owner, occupant or lessee fails to remove the rubbish, trash, weeds, filth, debris or dilapidated and dangerous building, and abate the conditions which constitute a hazard to public health and safety, the County may, at the expense of the owner, occupant or lessee, remove or cause removal of such trash, weeds, filth, debris or dilapidated and dangerous building. The

cost to be charged for such removal will be the actual cost of removal or abatement, including a five percent (5%) charge for additional inspection and incidental costs.

ASSESSMENT OF COSTS OF REMOVAL:

Section 404. The cost of removal of the rubbish, trash, weeds, filth, debris or dilapidated and dangerous building from any lot or tract of land located in the unincorporated areas of the County may be assessed, as set forth in Chapter 8 of this Ordinance, upon the lot or tract of land from which the rubbish, trash, weeds, filth, debris or dilapidated and dangerous buildings are removed. The assessment, from the date of its recording in the Office of the County Recorder, shall be a lien on the lot or tract of land, until paid.

APPEAL:

Section 405. Both the notice of violation and any assessment imposed pursuant to this chapter may be appealed to the Board of Appeals in the manner provided in Chapter 5 of this Ordinance.

RESTRICTIONS ON ENFORCEMENT:

Section 406. As used in this chapter, "occupant" does not include any corporation or association operating or maintaining rights-of-way for and on behalf of the United States Government, either under contract or under federal law.

REVIEW OF HISTORIC VALUE:

Section 407. Before the removal of a dilapidated and dangerous building the Board of Supervisors shall consult with the State Historic Preservation Office to determine if the building is of historic value.

REMOVAL FROM TAX ROLLS:

Section 408. If a county removes a dilapidated and dangerous building pursuant to this section, the County Assessor shall remove the structure from the property assessment tax rolls.

COMMENTARY: This chapter is intended to provide a way to remove rubbish, trash, weeds, filth, debris, or dilapidated and dangerous buildings that present a real danger to persons or property. This primarily occurs

in three cases: (1) accumulations or conditions which have a strong potential for causing or carrying a fire; (2) accumulations or conditions likely to cause injury to any person; and (3) accumulations or conditions likely to cause hazards to the health of any person. A.R.S. §36-601 provides a separate and additional ordinance and remedy to deal with accumulations that can cause disease or other health problems. While this chapter deals with situations caused by the occupant of the property, it also deals with involuntary acts of dumping by other persons or acts of nature. However, this section shall only be enforced when the condition is serious enough to present a real hazard to persons or property. It is not intended to apply as an "aesthetic" control -- that is, a way to get the county to beautify a neighbor's site.

Chapter 5

APPEAL

GENERAL:

Section 501. (e) FORM OF APPEAL: An owner, occupant or lessee of property affected may appeal from any notice and order or any action of the hazard abatement officer under this ordinance, or any assessment made pursuant to this Ordinance, by filing at the office of the hazard abatement officer written appeal containing:

1. A heading in the words: "Before the Board of Appeals of the County of Cochise".

2. A caption reading: "Appeal of _____", giving the names of all appellants participating in the appeal."

3. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.

4. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.

5. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.

6. The signatures of all parties named as appellants and their official mailing addresses.

7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

The appeal shall be filed within thirty (30) days from the date of the service of such notice, order or action of the hazard abatement officer; provided, however, that if the condition is such as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property, such appeal shall be filed within ten (10) days from the date of the service of the notice and order of the hazard abatement officer.

(b) PROCESSING OF APPEAL: Upon receipt of any appeal filed pursuant to this section, the hazard abatement officer shall present it at the next regular or special meeting of the Board of Appeals.

(c) SCHEDULING AND NOTICING APPEAL FOR HEARING: As soon as practicable after receiving the written appeal, the Board of Appeals shall fix a date, time and place for the hearing of the appeal by the Board. Such date shall be not less than ten (10) days nor more than sixty (60) days from the date the appeal was filed with the hazard abatement officer. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant by the secretary of the Board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.

EFFECT OF FAILURE TO APPEAL:

Section 502. Failure of any person to file an appeal in accordance with the provisions of Section 501 shall constitute a waiver of his right to an administrative hearing and adjudication of the notice and order or any portion thereof.

SCOPE OF HEARING ON APPEAL:

Section 503. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

STAYING OF ORDER UNDER APPEAL:

Section 504. Enforcement of any notice and order of the hazard abatement officer issued under this code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

COMMENTARY: A detailed appeal process is provided. Owner/occupant can challenge a decision of the hazard abatement officer to the Board of Supervisors. The Board will look carefully at the facts to see if the accumulation of rubbish, trash, filth, weeds, and debris, or dilapidated and dangerous building, is truly a hazard to public health or safety. In short, every protection is given to the property owner. There is a separate process to allow the property owner a right to challenge an interpretation by the hazard abatement officer to an independent advisory board.

Chapter 6

PROCEDURE FOR CONDUCT OF HEARING APPEALS

GENERAL:

Section 601. (a) RECORD: A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the Board.

(b) REPORTING: The proceedings at the hearing shall also be reported by a phonographic reporter if requested by any party thereto. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefor. Such fees may be established by the Board, but shall in no event be greater than the cost involved.

(c) CONTINUANCES: The Board may grant continuances for good cause shown.

(d) OATHS -- CERTIFICATION: In any proceedings under this chapter, the Board, any board member, has the power to administer oaths and affirmations and to certify to official acts.

(e) REASONABLE DISPATCH: The Board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

FORM OF NOTICE OF HEARING:

Section 602. The notice to appellant shall be substantially in the following form, but may include other information:

"You are hereby notified that a hearing will be held before the Board of Appeals at _____ on the _____ day of _____, 19____, at the hour of _____, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the Board of Appeals."

SUBPOENAS:

Section 603. (a) FILING OF AFFIDAVIT: The Board may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the board or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specified the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in his possession or under his control. A subpoena need not be issued when the affidavit is defective in any particular.

(b) PENALTIES: When any person refuses without lawful excuse to attend any hearing or to produce material evidence in his possession or under his control as required by any subpoena served upon such person as provided for herein, the Board may seek a court order to compel such attendance or production.

CONDUCT OF HEARING:

Section 604. (a) RULES: Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

(b) ORAL EVIDENCE: Oral evidence shall be taken only on oath or affirmation.

(c) HEARSAY EVIDENCE: Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this case.

(d) ADMISSIBILITY OF EVIDENCE: Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

(e) EXCLUSION OF EVIDENCE: Irrelevant and unduly repetitious evidence shall be excluded.

(f) RIGHTS OF PARTIES: Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
4. To impeach any witness regardless of which party first called him to testify;
5. To rebut the evidence against him; and
6. To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.

(g) OFFICIAL NOTICE:

1. What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the Board or departments and ordinances of the County or rules and regulations of the Board.

2. Parties to be notified. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the Board of Appeals.

3. Opportunity to refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the Board of Appeals.

4. Inspection of the premises. The Board may inspect any building or premises involved in the appeal during the course of the hearing, provided that: (i) notice of such inspection shall be given to the parties before the inspection is made; (ii) the parties are given an opportunity to be present during the inspection; and (iii) the Board shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the Board.

METHOD AND FORM OF DECISION:

Section 605. (a) HEARING BEFORE BOARD ITSELF: Where a contested case is heard before the Board, no member thereof who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision.

(b) FORM OF DECISION: The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent to him by certified mail, postage prepaid, return receipt requested.

(c) EFFECTIVE DATE OF DECISION: The effective date of the decision shall be as stated therein.

Chapter 7

PERFORMANCE OF WORK OR REMOVAL

GENERAL:

Section 701. (a) PROCEDURE: When any work or removal is to be done pursuant to this ordinance, the hazard abatement officer shall issue his order therefor to the director of public works and the work shall be accomplished by personnel of this jurisdiction or by private contract under the direction of said director. Plans and specifications therefor may be prepared by said director, or he may employ such architectural and engineering assistance on a contract basis as he may deem reasonably necessary. If any part of the work is to be accomplished by private contract, standard public works contractual procedures shall be followed.

(b) COSTS: The cost of such work shall be made a special assessment against the property involved as in the manner set forth in Section 808 through 813 of this ordinance, or may be made a personal obligation of the property owner, whichever the Board of Supervisors shall determine is appropriate.

Chapter 8

RECOVERY OF COST OF WORK OR REMOVAL

ACCOUNT OF EXPENSE, FILING OF REPORT -- CONTENTS:

Section 801. The director of public works shall keep an itemized account of the expense incurred by Cochise County in the work or removal of any materials, done pursuant to the provisions of this ordinance. Upon the completion of the work or removal, said director shall prepare and file with the hazard abatement officer a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the hazard is or was located, and the names and addresses of the persons entitled to notice pursuant to Section 402.

REPORT TRANSMITTED TO BOARD OF SUPERVISORS -- SET FOR HEARING:

Section 802. Upon receipt of said report, the hazard abatement officer shall present it to the Board of Supervisors who shall fix a time, date and place for hearing said report and any protests or objections thereto. The clerk of the Board of Supervisors shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in this jurisdiction, and served by certified mail, postage prepaid, addressed to the owner of the property as his name and address appear on the last equalized assessment roll of the County, if such so appear, or as known to the clerk. Such notice shall be given at least ten (10) days prior to the date set for hearing and shall specify the day, hour and place when the Board of Supervisors will hear and pass upon the director's report, together with any objections or protests which may be filed as hereinafter provided by person interested in or affected by the proposed charge.

PROTESTS AND OBJECTIONS -- HOW MADE

Section 803. Any person interested in or affected by the proposed charge may file written protests or objections with the clerk of the Board of Supervisors at any time prior to the time set for the hearing on the report of the director. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The clerk of the Board of Supervisors shall endorse on every such protest or objection the date it was

received by him. He shall present such protests or objections to the Board of Supervisors at the time set for the hearing, and no other protests or objections shall be considered.

HEARING OF PROTESTS:

Section 804. Upon the day and hour fixed for the hearing the Board of Supervisors shall hear and pass upon the report of the director together with any such objections or protests. The Board of Supervisors may make such revision, correction or modification in the report or the charge as it may deem just; and when the Board of Supervisors is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the Board of Supervisors on the report and the charge, and on all protest or objections, shall be final and conclusive.

PERSONAL OBLIGATION OR SPECIAL ASSESSMENT:

Section 805. (a) GENERAL: The Board of Supervisors of this jurisdiction may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved, in the manner set forth in Section 807 through 813 of this ordinance.

(b) PERSONAL OBLIGATION: If the Board of Supervisors of this jurisdiction orders that the charge shall be a personal obligation of the property, it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

CONTEST:

Section 806. The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within thirty (30) days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within thirty (30) days after the entry of such judgment.

ASSESSMENT AND LIENS FOR UNPAID COSTS & CHARGES -- ESTABLISHMENT:

Section 807. If any costs or charges, as imposed pursuant to this ordinance, are not paid by the owner, occupant or lessee

within thirty (30) days of such removal, such unpaid amount shall constitute an assessment upon the lots and tracts of land from which the rubbish, trash, weeds, filth or debris are removed and a lien upon said lot, tracts, or land until paid. Said lien may be perfected by the county against the subject property by recording a notice of lien in the Office of the Cochise County Recorder. Such notice of lien shall specify the nature of assessment, the amount of the lien and the name and address of the owner of the lot or tract and the person failing to pay the charges assessed. The lien shall continue in full force and effect on the tract of land or lot until the charges assessed are paid. Such liens are subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. The County may bring an action to enforce the lien in the Cochise County Superior Court at any time after the recording of the assessment, but failure to enforce the lien by such action does not affect its validity. The recorded assessment is prima facie evidence that the truth of all matters recited in the assessment and of the regularity of all proceedings before the recording of the assessment.

INTEREST:

01 Section 808. All such assessments remaining unpaid after thirty (30) days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate established for delinquent taxes from and after said date.

REPORT TO ASSESSOR AND TAX COLLECTOR -- ADDITION OF ASSESSMENT TO TAX BILL:

Section 809. After confirmation of the report, certified copies of the assessment shall be given to the Assessor and the County Treasurer, who shall add the amount of the assessment to the next regular tax bill levied against the parcel.

FILING COPY OF REPORT WITH COUNTY TREASURER:

Section 810. If the County Assessor and the county tax collector assess property and collect taxes for this jurisdiction, a certified copy of the assessment shall be filed with the County Treasurer within thirty (30) days after recordation of the lien. The descriptions of the parcels reported shall be those used for the same parcels on the County Assessors map book for the current year.

Chapter 9

VALIDITY

SEVERABILITY:

Section 901. The various parts of this Hazard Abatement Ordinance are hereby declared to be severable. If any Chapter, section, subsection, sentence, clause, phrase or word of this Hazard Abatement Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of said Hazard Abatement Ordinance.

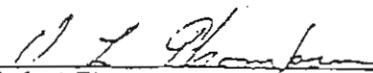
REPEAL OF CONFLICTING REGULATIONS:

Section 902. All regulations or ordinances or a portion of some in conflict with the provisions of this Hazard Abatement Ordinance, inconsistent with the provision of this Hazard Abatement Ordinance, are hereby repealed to the extent necessary to give this Hazard Abatement Officer full force and effect. All previous editions of the Hazard Abatement Ordinance are hereby repealed.

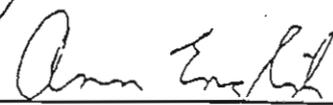
EFFECTIVE DATE:

Section 903. This Hazard Abatement Ordinance shall become effective beginning September 8, 1987 and remain in full force and effect thereafter.

APPROVED AND ADOPTED BY THE COCHISE COUNTY BOARD OF SUPERVISORS
THIS 8th DAY OF September, 1987.


V.L. Thompson, Chairman


Judith A. Gignac, Member


Ann English, Member

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