



**Cochise County**  
**Community Development**  
**Planning, Zoning and Building Safety Division**  
*Public Programs...Personal Service*  
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MEMORANDUM

TO: Cochise County Board of Supervisors  
 FROM: Peter Gardner, Planner I  
 FOR: Paul Esparza AICP, Planning Director  
 SUBJECT: Docket Z-16-02 (Kerr)  
 DATE: September 30, 2016 for the October 11, 2016 Meeting

APPLICATION FOR A REZONING

The Applicant is requesting a rezoning from RU-4 (Rural; one dwelling per 4 acres) to RU-2 (Rural; one dwelling per 2 acres). The subject parcel is 10.11 acres in size. The request is to facilitate dividing the parcel into five 2-acre parcels.

The subject parcel, APN 105-28-004A is located on S. Coronado Trail at the intersection with S. Parker Canyon Road. The Applicant is Scott A. Kerr.

PLANNING AND ZONING COMMISSION

On Wednesday, September 14, 2016, the Planning and Zoning Commission voted 6-0 to forward this Docket to the Board of Supervisors with a recommendation of approval. The motion included the conditions of approval recommended by staff. As three written objections were received from the public, Section 2206.09 of the Zoning Regulations requires the Board to hold a public hearing.

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Parcel Size: 10.11 acres  
 Current Zoning: RU-4 (Rural; one dwelling per 4 acres) Proposed Zoning: RU-2 (Rural; one dwelling per 2 acres)  
 Growth Area: D – Rural Area  
 Plan Designation: Rural  
 Area Plan: None  
 Existing Uses: None  
 Proposed Uses: Single Family Residential

Zoning/Use of Surrounding Properties

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Vacant
South	RU-4	Vacant
East	RU-4	High Density Residential
West	RU-4	Vacant

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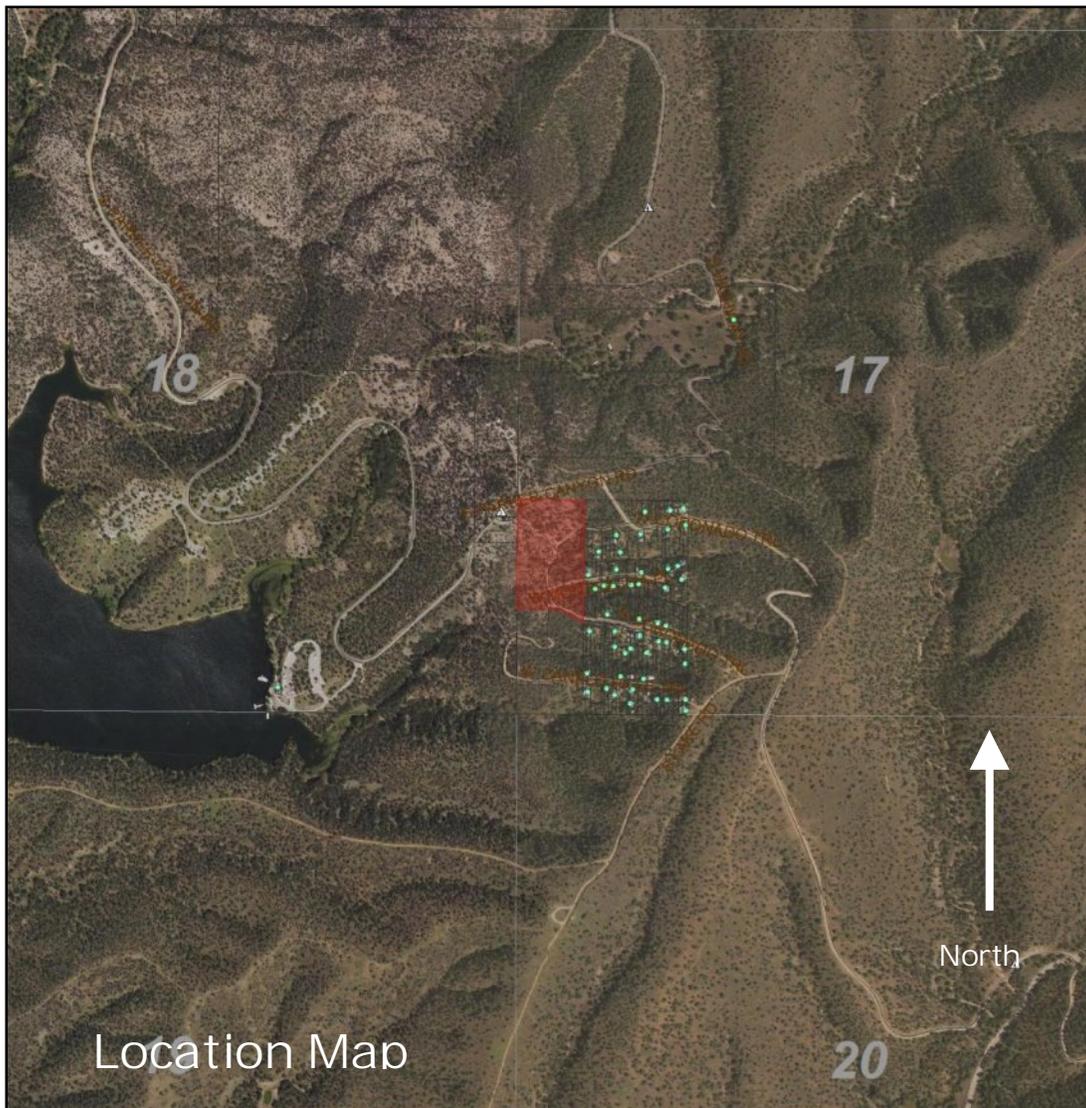
II. PARCEL HISTORY

None

III. NATURE OF REQUEST

The Applicant is requesting to amend the zoning on a 10.11-acre parcel adjacent to the Parker Lakeview Estates Subdivision from RU-4 to RU-2. This request is to facilitate splitting the parcel into lots of two acres minimum. The adjoining subdivision was platted in 1962, and is also zoned RU-4, however the parcel sizes vary from 7,800 square feet for small, single lots, to 64,000 square feet where multiple lots have been combined. Therefore, the entire subdivision is legal non conforming. Currently there are 48 homes on 103 parcels in the area of the platted subdivision. This request would permit up to five homes to be built on a site that would currently permit two homes. Other than maximum density, no other site development standards change from RU-4 to RU-2. The only change in uses is that Medical Marijuana Uses, which have not been requested, are permitted in RU-4 but not in RU-2.

Several of the access roads for the subdivision run through the subject parcel, and have been a cause of contention and litigation. One street in particular, W. Montezuma Place, is only accessible by travelling though the Applicant's property. While a technical analysis of the request is generally favorable, special care must be taken to preserve existing access, as well as to ensure that any potential lots created from the subject parcel remain feasible lots.





*Views of the terrain*



*Views of the creek*



#### IV. ANALYSIS OF IMPACTS

##### Mandatory Compliance

Section 2208.03 of the Zoning Regulations requires that the amendment of Zoning District boundaries take place in compliance with the Comprehensive or Area Plan Designation assigned to the area in question. In this case, the subject property lies within a Category "D" Rural Area and is considered a "Rural" area per the Comprehensive Plan. RU-2 zoning is permitted in the Category "D," "Rural" areas, so this request to rezone complies with the Comprehensive Plan as detailed below.

##### Compliance with Rezoning Criteria

Section 2208.03 of the Zoning Regulations provides fifteen criteria used to evaluate rezoning requests. Ten of the criteria are applicable to this request. Five of the criteria are met as is, and the remaining five are met with the recommended Conditions of approval.

##### 1. Provides an Adequate Land Use/Concept Plan: Complies with Conditions

The Applicant intends to create five lots from the 10.11-acre parcel; however, he has not yet submitted a preliminary plat. The regulations require a conceptual plat with the application, and a formal submittal within three years. Based on the limited scope of the request, which will not require a full subdivision plat, the conceptual plat may be waived; however, a full split should be submitted prior to split so that other the other factors listed below may be verified.

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

As noted above, the 10.11-acre site is developed. Downzoning to RU-2 would not negatively impact the ability of the parcel to be further developed. The only site development standard that would become less stringent is the maximum density. The Applicant must remain aware that under both the current RU-4 and proposed RU-2 zonings that all structures must remain a minimum of 20 feet from all property lines and road travelways.

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

The proposal would not affect the development prospects of any neighboring property.

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

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

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

While the surrounding area is all zoned RU-4, the existing legal nonconforming subdivision to the east consists of lots ranging from 7,800 square feet to 64,000 square feet, all of which are smaller than the 87,120 square foot minimum in RU-2.

#### 6. Rezoning to More Intense Districts: Not Applicable

As indicated above, while this request would create a higher density zoning district, the developed subdivision to the east is developed at a much higher density than this proposal will create.

#### 7. Adequate Services and Infrastructure: Complies with Conditions

All roadways currently exist, but have been the subject of recent litigation, as they are the sole access to a number of parcels, but cross this privately owned parcel. In addition, the topography and natural watercourses on the parcel may hinder the ability to install traditional septic systems. The Applicant shall work with the Highway and Planning Departments to ensure all sites remain accessible and functional.

#### 8. Traffic Circulation Criteria: Complies with Conditions

While the potential additional trips generated from granting the rights to three additional homes will not adversely impact the road network, there are several roadways that pass through this parcel. One of these, W. Montezuma Place, is accessible only via this parcel. There have already been problems with this access, culminating in litigation. To prevent future access issues to other sites, as well as the lots to be created, the Applicant shall work with the Highway and Planning Departments to ensure correct access is granted.

#### 9. Development Along Major Streets: Not Applicable

This parcel does not take access off a Major roadway; no new roads are proposed.

#### 10. Infill: Not Applicable

This Factor applies only for rezoning requests to General Business, Light Industry or Heavy Industry.

#### 11. Unique Topographic Features: Complies with Conditions

In addition to the roadways, the site has significant grades, rocky areas, and a creek running through it. Any proposed division must take these features into account, both to protect the environment, and to ensure that the lots are physically buildable.

#### 12. Water Conservation: Complies with Conditions

Upon submittal of the proposed split for review, water conservation measures must be detailed.

#### 13. Public Input: Complies

The Applicant completed a Citizen Review, and Staff mailed notices to neighboring property owners within 1,500 ft. of the subject property on August 9, 2016. Staff posted the property on August 23, 2016 and published a legal notice in the *Bisbee Observer* on August 25, 2016. Staff received eight letters in support, three in opposition, and one with concerns but not opposition.

#### 14. Hazardous Materials: Not Applicable

No hazardous materials are proposed.

#### 15. Compliance with Area Plan: Not Applicable

The subject property does not lie within an adopted Area Plan.

## V. PUBLIC COMMENT

In response to County mailings, the Planning Department has received eight letters in support, three in opposition, and one with concerns but not opposition. Those in support cited the large lot sizes relative to the existing subdivision lots and the benefits to the community and water company from additional new homes. Those in opposition cited concern about additional density and traffic, water contamination, loss of water service, and the impact on the topographical features present on the site. One homeowner expressed concern about water, waste, and access, but was not opposed if those issues were to be addressed.

## VI. SUMMARY AND CONCLUSION

The request is for a rezoning, from to RU-4 (Rural; one dwelling per four acres), to RU-2 (Rural; one dwelling per two acres) on a 10.11-acre parcel located on S. Coronado Trail in Parker Canyon. At this time, the area is characterized by open expanses, with all current development occurring on a Rural scale. The Comprehensive Plan designates the site as Rural. This designation constitutes a recommendation on the part of the Plan for a rezoning to a lower-density zoning district, providing a major Factor in Favor of Approval. A rezoning to the RU-4 district would therefore reflect the policies of the Plan, and would better reflect the existing character of the surrounding neighborhood.

### Factors in Favor of Approval

1. Allowing the request would be in keeping with the character of the existing development in the area and create a buffer between the small subdivision lots and larger RU-4 zoned parcels;
2. The Comprehensive Plan policies prescribe a low density of residential development in this area to protect the current character of the neighborhood, and the request would facilitate such a density; and
3. Eight letters of support have been received.

### Factors Against Approval

1. Without a conceptual split plan, Staff cannot guarantee that access issues, topographical issues, and appropriate site development standards will be met;
2. Three letters of opposition or concern have been received.

## VII. RECOMMENDATION

Based on the factors in favor of approval, Staff recommends Approving the request for a rezoning, from RU-4 (Rural; one dwelling per four acres) to RU-2 (Rural; one dwelling per two acres) on a 10.11-acre parcel located on W. Coronado Trail in Parker Canyon, subject to the following Conditions:

1. The Applicant shall provide the County with a signed Acceptance of Conditions and a Waiver of Claims form arising from ARS Section 12-1134 signed by the property owner of the subject property within thirty (30) days of Board of Supervisors approval of the rezoning;
2. 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;
3. The Applicant shall work with the Highway Department to submit for Board of Supervisor acceptance and, if applicable, dedicate road easements to ensure access to the public per the letter from Joaquin Solis dated September 1, 2016; and
4. The Applicant shall submit within 12 months a proposed split map identifying all proposed and existing property lines, all proposed and existing easements, and building envelopes.

## VIII. ATTACHMENTS

- A. Application
- B. Location Map
- C. Agency Comment Memos
- D. Citizen Comment