

BLAINE COUNTY BOARD OF COMMISSIONERS
PUBLIC HEARING on January 29, 2019

REGARDING AN APPLICATION OF: John Majors and Diane Crist for the Final Plat of Morada Farms Subdivision, Phase 2.	FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
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REQUESTED ACTION: The applicants, John Majors and Diane Crist, have submitted a request for final plat approval of Morada Farms Subdivision, Phase 2. This final plat would create Lots 2, 6A, 6B, and 6C. The property is zoned Light Industrial (LI) and Productive Agricultural (A-20) Districts with areas of Floodplain and Wildlife Overlay Districts, and entirely within the TDR Receiving Zone, and is located off West Glendale Road, within Section 14 T1N, R18E, BM, Blaine County. The Board of Commissioners approved the preliminary plat application on May 17, 2016, and the revised Phase 1 final plat on October 3, 2017.

APPLICABLE REGULATIONS:

Title 3 (Health and Safety); Title 6 (Public Ways); Title 7 (Building Regulations); Title 8 (Comprehensive Plan); Title 9 (Zoning Regulations): Chapters 5, 15, 17, and 20
Title 10 (Subdivision Regulations): Chapters 1-5, and 10

REPRESENTATIVE: Galena Engineering

I. GENERAL BACKGROUND

1. **Notice of the January 29, 2019, public hearing was:**
 - i. published in the Idaho Mountain Express on January 9, 2019;
 - ii. sent by first class mail on January 7, 2019 to all property owners within 300 feet of the external boundaries of these lots and all owners within Sleepy Acres Subdivision;
 - iii. sent to all political subdivisions on January 7, 2019;
 - iv. posted on subject property on January 22, 2019, as evidenced by affidavits in file, which is more than seven days prior to the hearing; and
 - v. posted on the County’s website on January 14, 2019.

► **Finding:** Upon motion by Commissioner McCleary, second by Commissioner Greenberg, and by a vote of 2 to 0 (Commissioner Fosbury abstaining) the Board finds notice to be in compliance with applicable regulations. §10-4-3 of the Subdivision Ordinance.

2. Disclosures (i.e. conflicts of interest, site visits or *ex parte* communications): Commissioners McCleary and Greenberg noted that they were involved in the hearings and decision on the Morada Farms preliminary plat and Phase 1 Final Plat.

3. Attached to the staff report and incorporated by reference are the following exhibits:

Exhibit A—Application Materials - received December 20, 2018, unless otherwise noted

- A-1: Completed application form.
- A-2: Proposed final plat for Phase 2 (2 sheets)
- A-3: 300' adjoining maps for notice (2 sheets)
- A-4: Mailing labels for notice

Exhibit B—Agency Comments

None requested

Exhibit C—Additional Information

- C-1: Phasing Agreement
- C-2: BCC Findings of Fact, Conclusions of Law and Decision, on Phase 1 Final Plat approval on October 3, 2017
- C-3: BCC Findings of Fact, Conclusions of Law and Decision, on Preliminary Plat approval on May 17, 2016

Exhibit D—Public Comments

None received.

II. FINAL PLAT PROCEDURE §10-4-5 (A), (E) and (I)
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- A.** *2. Preparation And Filing: The final plat shall be prepared in accordance with Idaho Code, section 50-1301 et seq., and the provisions of this title, and filed with the administrator, together with a letter requesting that it be placed on the board's agenda for consideration. In the event the final plat does not conform substantially to the approved preliminary plat, the administrator shall so inform the subdivider. The administrator shall then proceed to assign the final plat to the commission agenda for their action as a preliminary plat.*

Finding: This standard requires that the final plat conform substantially to the approved preliminary plat. The Board found in 2017 that the Phase 1 final plat did conform to the approved preliminary plat and that certain changes (the phasing plan, lot numbering, Costoff Rd. easement) did not substantially alter the approved preliminary plat. The proposed Phase 2 final plat makes no changes to the preliminary plat nor the phasing agreement. As such it does conform.

The approved phasing agreement (see Exhibit C-1) states that the second phase (the remaining four LI lots) would be approved upon the paving of Morada Lane. Due to the winter season, the applicants propose to provide financial security for the paving and associated road work, pursuant to subsection "I" below.

E. *Board Action: At its next available, adequately noticed, hearing time following receipt of final plat application, the board shall consider said plat, recommendations from the commission, if any, additional information and comment from the public and public agencies, and improvement bonding. Further, the board shall determine whether the final plat conforms to the conditions required on the preliminary plat, regulations of this title and other county laws, policies of the comprehensive plan and provisions for the public health, safety and welfare. Subsequent phases of a multiphased development may be required to provide mitigation for additional on site and off site impacts. The board shall then vote to approve, modify or deny the final plat application, declare findings within fifteen (15) days and notify the subdivider of the decision in writing within fourteen (14) days of the final disposition.*

This subsection is broken down into the following actions:

1. *...consider recommendations, if any, from the Commission, additional information and comment from the public and public agencies,*

Finding: Because the Phase 2 final plat conforms to the preliminary plat with no substantive changes, P&Z Commission review is not deemed necessary. No additional information or comment from public agencies is deemed necessary.

2. *...determine whether the final plat conforms to the conditions required on the preliminary plat,*

Finding: Except to the extent that any may have been met, conditions of approval should be restated and reaffirmed. Four conditions of preliminary plat approval were met prior to Phase 1 final plat, and therefore were deleted.

3. *...determine whether the final plat conforms to the regulations of Title 10,*

Finding: The preliminary plat Findings, Conclusions and Decision showed that requirements of Title 10 had been adequately addressed. As long as this proposed final plat satisfies the requirements set out in this report, including meeting conditions of approval, and, prior to recordation, those in §10-4-5.H-Contents of Final Plat and §10-4-5.J-Monumentation, the final plat will conform to the regulations of Title 10.

4. *...determine whether the final plat conforms to policies of the comprehensive plan,*

Finding: The Board found that the preliminary plat conforms to the comprehensive plan; the final plat reflects the preliminary plat and thus comprehensive plan compliance is met.

5. *...determine whether the final plat conforms to provisions for the public health, safety and general welfare,*

Finding: Provided the applicant satisfies the final plat criteria and all preliminary and final plat conditions of approval, this final plat will satisfy the county's provisions for the public health, safety and general welfare.

I. *Improvement Guarantees: If the board finds that it is desirable that required improvements be completed after final plat filing, a performance bond, cash deposit, negotiable bond or other financial guarantee acceptable to the board shall be posted with the county. The amount shall be not less than one hundred fifty percent (150%) of the estimated cost of improvement construction as determined by the registered engineer on the project and shall be verified by the county engineer. The subdivider shall pay any county engineer review fees and provide a definite timetable for completion of said improvements. The financial guarantee shall provide for forfeiture to the county upon the failure by the developer to construct any or all of the improvements according to the approved schedule.*

Finding: The Board's preliminary plat decision included conditions requiring the applicant to complete various improvements. The applicant will need to verify that all of these have been adequately completed prior to recording, or financially guarantee their completion. In this instance, the applicants plan to financially guarantee for the paving of Morada Lane, required for Phase 2.

III. DECISION AND CONDITIONS

► **Decision:** Having considered the information presented and the above standards, the Board of County Commissioners, upon motion by Commissioner McCleary, second by Commissioner Greenberg, and by a vote of 2 to 0 (Commissioner Fosbury abstaining), approves this application by John Majors and Diane Crist for final plat approval of Morada Farms Subdivision, Phase 2, finding the final plat complies with the applicable criteria set forth under Title 10, Subdivision Regulations, Chapter 4, Final Plat Procedure, subject to the following conditions:

Conditions of approval:

1. Conditions of preliminary plat and phase 1 final plat approval are reaffirmed for Phase 2. The following conditions were revised in the Phase 1 final plat approval and remain the same.
 - a) Condition #1 is revised to state: Record the final plat within the time period set forth in the Phasing Agreement.
 - b) Condition #10 is revised to state: A deed of attachment of development rights, in the form prescribed by the board, shall be recorded with the Blaine County recorder indicating the permanent attachment of any development rights to the receiving area lots within Phase 3, and shall include the names of the initial grantor of each development right affixed or made appurtenant to the receiving parcel, the instrument number of the original deed of transfer, the name of the last grantee of record of each development right affixed or made appurtenant to the receiving parcel, and the serial numbers of the individual certificates for each such development right, pursuant to Blaine County Code 10-10-10 (B).

- c) Condition #13 is revised to state: Morada Lane shall be surfaced in accordance with the approved Phasing Agreement.
 - d) Condition #24 is revised to state: A plat note shall be added on the Phase 3 final plat that identifies the development rights made appurtenant to the Phase 3 (residential) lots, including the serial numbers of the certificates for each development right purchased through the Transfer of Development Rights Program, pursuant to Section 10-10-10 (A).
 - e) Conditions #8, 9, 25 and 26 are deleted because they have been met.
2. All improvements shown on the plat or required in the Board's preliminary plat decision shall be completed, or financial security in the amount of 150% of the estimated cost of incomplete improvements along with an approved security agreement, shall be in place prior to recording the plat.
 3. Approved plat notes are indicated on the Phase 2 final plat received on December 20, 2018.

Idaho Code §67-6535(c) Notice: The owner of the property subject to this application and decision may request a regulatory taking analysis pursuant to I.C. 67-8003.

IT IS SO ORDERED.

DATED this 12th day of February, 2019

BLAINE COUNTY BOARD OF COMMISSIONERS



Jacob Greenberg, Chairman

CERTIFICATE OF MAILING

The undersigned person hereby certifies that on the 19th day of February, 2019, she served a true and correct copy of the foregoing document by depositing the same in the U.S. Mail addressed as follows or by service otherwise as noted:

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