



## INTEROFFICE MEMO

**Date:** August 30, 2018  
**To:** Board of Supervisors  
**From:** Robert Kirschmann, Planner II  
**Subject:** Morning Star Airpark Assurance Agreement Extension and Substitution

This request is for approval of a Substitute Assurance Agreement and Extension for the Morning Star Airpark Subdivision. The property has been owned and farmed by Mr. Ed Curry of Pearce, Arizona. Mr. Curry's intent is to extend the assurance agreement, preserving the entitlements granted by the Final Plat during the current economic conditions. He is actively farming the site. He has provided a Substitute Assurance Agreement to assure the required improvements approved by the Final Plat are made upon the parcel prior to selling any lots. Mr. Curry has stated that he may wish to farm the land for another 8 – 10 years while keeping options for his retirement open, and before making any final decisions regarding the further development of this property.

The Morning Star Airpark Subdivision consists of 483.78 acres, zoned RU-4, which was to be developed in four phases consisting of a total of 142 lots ranging in size from 1.29 to 1.45 acres. The subdivision was approved as a Conservation Subdivision in 2008, which grants a 34% density bonus and allows flexible lot sizes if 50% of the acreage is conserved as open space. The Conservation area is 229.74 acres (Tract B). The density bonus results in 30 additional lots for a total of 142 residential lots and 2 non-residential lots (condo hangars). The site is located on the east side of Highway 191 with frontage on Birch Road and is designed to be a private, gated airpark. In 2007, a Special Use Permit for a private landing strip was approved by the Planning and Zoning Commission for this site (SU-07-07). Special Use Permits run with the land, not with the Owner.

The Board of Supervisors approved a Substitute Assurance Agreement in 2012 when Mr. Curry purchased the property. At that time, the Board granted a waiver to the three (3) requirement to complete improvements. The applicant was given five (5) years for the improvements to be completed.

The Assurance Agreement section of the Subdivision regulations have been updated and establish five factors to consider with these types of requests:

**Planning, Zoning and Building Safety**  
1415 Melody Lane, Building E  
Bisbee, Arizona 85603  
520-432-9300  
520-432-9278 fax  
1-877-777-7958  
planningandzoning@cochise.az.gov

**Highway and Floodplain**  
1415 Melody Lane, Building F  
Bisbee, Arizona 85603  
520-432-9300  
520-432-9337 fax  
1-800-752-3745  
highway@cochise.az.gov  
floodplain@cochise.az.gov

**1. Whether the property taxes on the subject parcel(s) are current.**

*Yes, verified by staff.*

**2. If the subdivision is phased, whether the subdivision infrastructure improvements for at least 20% of the proposed phases have been completed. If it is not phased, whether at least 25% of the subdivision infrastructure improvements have been completed.**

*The applicant states that the water district has been formed and the potable water approved by the Arizona Department of Water Resources.*

*The site is actively being farmed. The market has not yet recovered to a point that the subdivision is viable.*

**3. The number of extensions previously granted. A maximum of three extensions, not exceeding a total of ten (10) years since either the original approval of the assurance agreement or the most recent release of a lot, whichever has occurred later.**

*The subdivision has received one previous extension in 2012, when Mr. Ed Curry purchased the property. That extension was for five (5) years expiring in 2017. It has been ten (10) years since the original approve in 2008. However, there have been no signification changes to the Zoning Regulations which impacts the design of the approved subdivision. In addition, the Sulfur Springs Valley have seen positive improvements in recent years. These include the expansion of existing and new vineyards, expansion of the dairy operations, restart of mining operations. It is possible, that a subdivision similar to this could see interest in light of these activities.*

**4. The economic conditions or other circumstances that are affecting the developer's ability to complete subdivision improvements.**

*As stated above, although conditions are improving the owner is not ready to move the project forward at this time.*

**5. Has the character of the area or physical factors such as drainage, floodplain, water issues or circulation patterns changed significantly since plat approval that compliance with current County Subdivision and/or Zoning Regulations is necessary.**

*There have been no changes to the physical area, Zoning Code or Subdivision Regulations that would impact that proposed subdivision.*

Though Staff understands the concerns of allowing an approved subdivision to be extended in excess of ten (10) years there have been no changes which would impact the original approval.

The Assurance Agreement lapsed on April 24, 2017, approximately 18 months ago. The Applicant is requesting an extension until April 24, 2025 (8 years from the expiration). Staff recommends approval of

this assurance agreement extension and substitution.