



# COCHISE COUNTY COMMUNITY DEVELOPMENT

*"Public Programs...Personal Service"*

## MEMORANDUM

**TO:** Cochise County Board of Supervisors  
**THROUGH:** Jim Vlahovich, County Administrator  
**FROM:** Jim Henry, Planner I  
**FOR:** Paul Esparza, AICP, Planning Director  
**SUBJECT:** Docket S-99-01 Foremost Amended Subdivision Plat Abandonment  
**DATE:** May 10, 2016 for the May 24, 2016 meeting

### I. REQUEST FOR PLAT ABANDONMENT

This is a request to abandon the Foremost Amended Subdivision Plat, and the Assurance Agreement per the request of the property owner Mr. Nuri Muhammad. The Foremost Subdivision is a 28-lot subdivision located east of US Highway 191 approximately 2.5 miles east of the intersection of E. Birch Road and US Highway 191 northeast of Sunsites; a portion of the northeast quarter of Section 09, Township 17 South, Range 25 East, of the G.&S.R.M. All 28 lots are vacant and no improvements have been completed.

### II. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING LAND USES

Subdivision Size: 158.1 Acres  
 Zoning: RU-4 (Rural, minimum lot size 4 acres)  
 Growth Area: D-Rural  
 Comprehensive Plan Designation: D-Rural  
 Area Plan: None  
 Existing Uses: Vacant 28-lot subdivision  
 Type of Subdivision: Standard Subdivision  
 Flood Zone: X / A

Relation to Subject Subdivision	Zoning District	Use of Property
North	SR-22	Arizona Sun Sites Unit 10
South	RU-4	Vacant
East	RU-4	State of Arizona
West	RU-4	Vacant

### III. SUBDIVISION HISTORY

8/11/1999 – The Planning and Zoning Commission approved a Special Use permit for a private school and airstrip

11/27/2001 – Foremost Subdivision Final Plat (cluster residential subdivision option) approved by the Board of Supervisors recorded in book 14 pages 63 and 63A

12/03/2001 – The Foremost Subdivision Assurance Agreement was recorded, Cochise County Recorder; beneficiary Nuri Muhammad and Kaliqah Muhammad

11/27/2004 – The first Assurance Agreement for subdivision improvements expired

10/25/2005 – The Board of Supervisors conditionally approved a waiver to §302 of the Subdivision Regulations allowing submittal of a new Foremost Subdivision Final Plat, not in substantial conformance with the Tentative Plat (renamed to Foremost Amended Subdivision)

4/12/2007 – A second Assurance Agreement was recorded for Foremost Amended Subdivision improvements recorded, Cochise County Recorder; beneficiary Nuri and Kalifah D. Muhammad Family

12/11/2007 – Foremost Amended Final Plat approved by Board of Supervisors

12/14/2007 – Foremost Amended Final Plat recorded, Book 15, pages 88, 88A, and 88B, Cochise County Recorder

4/12/2010 – The second Assurance Agreement expired

10/06/2010 – Assurance Agreement Extension for Foremost Amended Subdivision improvements recorded, Cochise County Recorder; beneficiary Nuri Muhammad

12/14/2011 – Assurance Agreement Extension for subdivision improvements expired

2012 – Mr. Muhammad's first attempt to abandon the subdivision

2014 – Abandonment plat received and accepted by the County abandonment, but was postponed due to the parcels being in back taxes

2/2016 – Mr. Muhammad paid the back taxes and all of the parcels within the subdivision are now current

#### **IV. NATURE OF REQUEST**

After the housing market crash in 2008, Mr. Muhammad has been unable to locate financial support to develop the subdivision and would now like to abandon it. Mr. Muhammad's first attempt to abandon the subdivision was in 2012, but by the time the abandonment plat was received and accepted by the County in 2014, the parcels were in back taxes. It was then determined at a joint meeting with the Treasurer's office and the County Attorney's office that the abandonment could not move forward until the taxes were paid and current. In February of 2016, Mr. Muhammad paid the back taxes and all of the parcels within the subdivision are now current.

The original Foremost Subdivision was tentatively platted on October 13, 1999. The Board of Supervisors approved the Final Plat on November 27, 2001. In 2007, the original plat was amended, at which time it became known as Foremost Amended Subdivision. The Foremost Amended Subdivision was approved by the Board of Supervisors on December 11, 2007 as a standard subdivision and recorded on December 14, 2007. Foremost Amended Subdivision consists of 28 lots and includes four tracts as noted on the plat as tracts A, B, C, and D. The total area of the subdivision equals approximately 158.1 acres and is zoned RU-4 (Rural). Access to the subdivision is provided via US 191 to E. Birch Rd. and east to Atiya Dr., which provides public access to the interior of the subdivision. Apart from the 28 platted lots, tracts A, B, and C were to be dedicated as open space and altogether represent a total of 27.42-acres. Tract D was to be used as a private airstrip for the owner and his guests. The Planning and Zoning Commission approved a Special Use request for the airstrip as part of the original plat in 1999 (SU-99-09). The subdivision also includes several utility, access, and drainage easements.

The Foremost Amended Subdivision Final Plat was recorded with a required Assurance Agreement to ensure the completion of the subdivision improvements prior to the release of lots for sale. The final Assurance Agreement expired on December 14, 2011 without the completion of the improvements. To date no subdivision improvements have been completed and the Assurance Agreement is expired. No lots were sold and no new structures were built on any lot. The subdivision meets the abandonment criteria of Article 3, Section 308.C of the Cochise County Subdivision Regulations, which states:

“The Board of Supervisors may abandon a recorded final plat if required improvements have not been completed in a timely fashion or it is otherwise proposed for abandonment by the Planning Director.”

All Lot, Tract, and Open Space boundaries, including streets, ingress/egress, access and utility, non-vehicular access, drainage, and sight distance easements and/or rights-of-way as shown on sheet two of two of the Abandonment plat will be extinguished. Easements or rights-of-way for ingress/egress, public utilities, public right-of-way easements, and/or property interests separate from the Foremost Amended Subdivision plat, will not be abandoned. Per State statutes, after the plat has been abandoned, the property owner is entitled to again subdivide the property and sell no more than five parcels without subdivision review by the County.

**V. RECOMMENDATION**

The Planning Department recommends that the Board of Supervisors **Approve** the abandonment of Foremost Amended Subdivision Final Plat recorded in Book 15 of Maps pages 88, 88A, and 88B of the Cochise County Recorder and authorize the Chairman to sign the Abandonment Plat of Foremost Amended Subdivision and the Resolution.

**ATTACHMENTS**

- A. Subdivision Final Plat and Abandonment plat
- B. Resolution
- C. Assurance Agreement
- D. Assurance Agreement Extension