

BLAINE COUNTY PLANNING & ZONING HEARING EXAMINER

PUBLIC HEARING on March 2, 2023 at 6:30 p.m.

REGARDING AN APPLICATION OF: David and Derrick Ellis for a Floodplain Conditional Use Permit at 84 Morada Lane.	STAFF REPORT By: Kristine Hilt Date: February 7, 2023
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REQUESTED ACTION: A public hearing and consideration of an application by David and Derrick Ellis to import fill on the property, within the regulatory floodplain, to elevate portions of the property above the base flood elevation. The 4.5-acre property is located at Lot 6C, Block 2, Morada Farms Subdivision and is zoned Productive Agricultural (A-20) and Light Industrial (LI) with areas of Floodplain (FP) Overlay District.

PROPERTY OWNER/APPLICANT: David and Derrick Ellis

REPRESENTATIVES: Erick Powell, P.E., Brockway Engineering

NAME/REACH OF STREAM: Big Wood River

LOCATION/LEGAL DESC.: 84 Morada Lane, Lot 6C, Blk 2, Morada Farms Sub

APPLICABLE REGULATIONS: Title 9 (Zoning): Chapters 5, 15, 17, 19, 25 and 33
Title 8 (Comprehensive Plan)

I. GENERAL BACKGROUND

1. **Notice** of this public hearing was:
 - a. Legal notice was published in the Idaho Mountain Express on February 08, 2023.
 - b. Notice was mailed on February 07, 2023, to surrounding landowners within 300’ of the exterior boundary of the property.
 - c. Notice was mailed on February 07, 2023, to all Blaine County political subdivisions.
 - d. An on-site notice was posted on or before February 24, 2023, at least 7 days prior to the hearing as evidenced by the affidavit in file.

Pursuant to Idaho Code §67-6512 and Blaine County Zoning Ordinance regulations, the Hearing Examiner shall review the above notice procedures and make a finding as to compliance.

► **Hearing Examiner’s Finding as to Notice:** _____

2. Any **disclosures** (i.e. conflicts of interest, site visits or *ex parte* communications)?

3. Attached to this report are the following exhibits:

Exhibit A—Application Materials

All application materials were received on January 10, 2023, unless indicated otherwise.

- A-1: Floodplain Conditional Use Permit Application form
- A-2: Vicinity Map
- A-3: Applicant responses to standards of evaluation
- A-4: Technical narrative from project engineer
- A-5: Approximate Fill Depth Map

Exhibit B—Agency Comments

None received to date of this report

Exhibit C—Blaine County Supplemental Information

- C-1: Staff, County Engineer and applicant email regarding applying for fill in the regulated floodplain.
- C-2: Staff and County Engineer review (email format)

Exhibit D—Public Comments

None received to date of this report

4. Summary: According to Exhibit A-4, Technical Narrative, the following is stated:

“The current delineated Big Wood River floodplain does include portions of the property at 84 Morada Lane (Figure 1), and the owners wishes to place fill on the property, within the floodplain, to elevate the property above the base flood elevation (BFE).”

Exhibit C-2 states, *“By more accurately delineating and defining the areas that may be inundated and excluding areas that have not been inundated will help in a more realistic delineation of the floodplain in this reach. A more accurate floodplain will reduce County time and effort processing floodplain related applications for proposed activities that are within the mapped floodplain, but are not within inundated areas of the 100-year floodplain. And allow private land owners to develop land for light industrial purposes that is lacking in the valley.”*

II. FLOODPLAIN SPECIFIC USE REQUIREMENTS: §9-17-6E

E. Specific Use Requirements: The following provisions apply to all uses within the Floodway and Floodplain Subdistricts. The burden of proof always rests with the applicant:

1. *Local Public Interests: The proposed application (use) does not conflict with the local public interest, i.e., the affairs of the people in the area directly affected by the proposed use. This includes, but is not limited to, property values, fish and wildlife habitat, aquatic life, recreation, water quality, potable water sources or an impact upon a locally important factor. **This section of the Big Wood River is unique in that it runs dry for approximately half the year. All of the water is diverted into three (3) separate canals just upstream of the bridge. The lack of water contributes to minimal fish and wildlife habitat, limited aquatic life, almost no recreation and decreased water quality. The locally important factor is mostly limited to light and heavy industrial uses, which include contractor storage, and gravel mining/processing.***

2. *Changes To The Flood Insurance Rate Map: Any boundary or base flood elevation established by a registered professional engineer in the State that is in conflict with the effective flood insurance study (FIS) must be submitted to and approved by FEMA through a revised FIRM, or through a letter of map change (LOMC) issued by FEMA. Such amendments or revisions to the effective FIRMs authorized by FEMA shall be considered amendments or revisions to the maps adopted hereinabove and may be used as the best available information. **The intent of the property owner is to amend the FEMA floodplain map after the fill is placed on the property.***
3. *Riparian Habitat: Replacement of native riparian habitat, including vegetation, shall be required for all disturbed areas within the required setbacks. **There is no identified riparian habitat on the subject lot.***
4. *Location: Development and building sites or envelopes shall be located outside of the Floodplain Overlay District, where such areas are available, unless such a location would result in greater adverse impacts to wetland, riparian, or other risk areas. **The applicant intends to build self-storage facilities (conditional) and allow for contractor storage (permitted) on the lot, both of which are specifically listed in the Light Industrial Zoning District.***
5. *Anchoring: All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. **N/A. No structures are proposed.***
6. *Requirements For Structures Partially In The Floodplain Overlay District: When a structure is partially located in the Floodway or Floodplain Subdistricts, the entire structure shall meet the requirements for new construction and substantial improvements. **N/A.***
7. *Additional Permits: Categorical exclusions, conditional use permits and building permits shall be reviewed to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required. **N/A. Staff is unaware of any Federal, State or other local government permits necessary.***
8. *Construction Materials And Methods: All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage, using methods and practices that minimize flood damage. All new and replacement electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be elevated to BFE, so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches. **N/A***
9. *Basements: Basements are prohibited within the Floodplain and Floodway Subdistricts. **N/A***
10. *Utilities: New and replacement water disposal, sanitary sewage, and water supply facilities shall be designed to minimize or prevent the infiltration of floodwaters to avoid impairment to them or contamination from them during flooding. A permit shall be received from the South Central Public Health District who shall determine the specific system to be used. **N/A***
11. *Residential Construction: . . . **N/A.***
12. *Nonresidential Construction: . . . **N/A***
13. *Appurtenant Structures (Detached Garages And Storage Structures): **N/A***
14. *Manufactured Homes: . . . **N/A.***
15. *Recreational Vehicles: . . . **N/A.***
16. *Subdivision Proposals . . . **N/A.***

- 17. Tanks: . . . **N/A.**
- 18. Standards For Shallow Flooding Areas (AO Zones): . . . **N/A.**
- 19. AH/AO Zone Drainage: . . . **N/A.**
- 20. No Base Flood Elevation Data Available: The Administrator shall obtain, review and reasonably utilize any Federal, State or local source to determine a BFE. . . **N/A.**
- 21. Certification Requirements: . . . **N/A.**
- 22. Floodway Not Determined: Where the floodway has not been determined . . . **N/A.**

**III. FLOODPLAIN CONDITIONAL USE PERMIT APPLICATION (FP-CUP): STANDARDS OF EVALUATION
BLAINE COUNTY CODE §9-17-7E**

E. Criteria for Evaluation: It is incumbent upon the applicant to show that the criteria of this regulation have been satisfied. The commission or the board (or hearing examiner) shall consider factors specified in other sections of this title, as well as the following:

1. *The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.*
 - **STAFF COMMENT:** Floodplain issues are addressed in the Comprehensive Plan in Chapter 3, Recreation; Chapter 5, Natural Environment; Chapter 8, Land Use; as well as Chapter 17 of the Zoning Ordinance. The overall policy established by the Comprehensive Plan and Code is to protect the floodplain by avoiding development that adversely impacts the natural functioning of the floodplain while accommodating residential uses whose negative impacts can be mitigated. The applicant has provided a technical narrative, which includes hydraulic modeling and historic flooding information, to support the conclusion that the FEMA mapping is incorrect in this location and that importing fill will not adversely impact adjacent landowners or the floodplain area.
 - **APPLICANT COMMENT:** *This area has no experienced flood inundation during the 2006 or 2017 floods. There is need for contractor storage within the county.*

2. *The preservation of the inherent natural characteristics of the watercourses and floodplain areas.*
 - **STAFF COMMENT:** This proposal appears to minimally impact any natural characteristics of the watercourse/floodplain areas. Staff and County Engineer have reviewed this proposal and we agree with the assessment that the FEMA maps are incorrect in this area. Placing fill in an area that is incorrectly mapped as floodplain will not impact the adjacent watercourse or flood susceptible areas.
 - **APPLICANT COMMENT:** *No encroachment to the natural watercourse is proposed. Portion of the property is within the mapped floodplain, but no flood inundations have occurred.*

3. *The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.*

- **STAFF COMMENT:** The existing development in the vicinity is industrial. The proposed use is self storage and contractor storage, both of which are in high demand locally.
- **APPLICANT COMMENT:** *The proposed use is for storage. There is a need for storage within the county.*

4. *The danger to life and property due to increased flood heights or velocities caused by encroachments.*

- **STAFF COMMENT:** It is unanticipated that the fill will encroach into the flood susceptible areas.
- **APPLICANT COMMENT:** *Based on the 2006 and 2017 flood events, no indication that flood waters inundate the property. Therefore, no impact to flood flows.*

5. *The effect upon fish and wildlife habitat, including existing vegetation.*

- **STAFF COMMENT:** None anticipated.
- **APPLICANT COMMENT:** *Proposed project will not have adverse effects on fish or wildlife habitat. Existing vegetation will be removed.*

6. *The availability of alternative locations not subject to flooding for the proposed use.*

- **STAFF COMMENT:** The applicant cannot justify the additional expenses associated with construction in a mapped floodplain. Due to the high cost of labor and materials, it made more financial sense to develop the entire property, rather than just the area outside of the floodplain.
- **APPLICANT COMMENT:** *Alternative locations are being evaluated. Need for storage within the county is high.*

7. *The probability of mass erosion to adjacent property as opposed to normal stream bank erosion and accretion.*

- **STAFF COMMENT:** None anticipated.
- **APPLICANT COMMENT:** *Not applicable - property not located on stream bank.*

8. *The safety of access to the property in times of flood of ordinary and emergency vehicles.*

- **STAFF COMMENT:** Access to this site is from outside of the mapped floodplain.
- **APPLICANT COMMENT:** *Access to property is outside of floodplain.*

9. *The danger that materials may be swept on to other lands or downstream to the injury of others.*
- **STAFF COMMENT:** None anticipated.
 - **APPLICANT COMMENT:** *No evidence of flood flows on the property. No anticipated materials will be swept downstream as a result of flooding.*
10. *The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.*
- **STAFF COMMENT:** None are proposed.
 - **APPLICANT COMMENT:** *No impact to water supply or sanitation systems are anticipated. Storage of contractor equipment shall be free of leaks.*
11. *The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.*
- **STAFF COMMENT:** No structures are proposed.
 - **APPLICANT COMMENT:** *Local public interest supports additional storage within the county.*
12. *The importance of the service provided by the proposed facility to the community.*
- **STAFF COMMENT:** Once the fill is placed and the land removed from the FEMA floodplain maps, development will include industrial uses, which are in high demand in the community.
 - **APPLICANT COMMENT:** *Storage needs in the county are high.*
13. *The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.*
- **STAFF COMMENT:** According to the updated hydraulic modeling provided by the applicant's engineer, there will be no impact to the expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters expected at the site.
 - **APPLICANT COMMENT:** *None. No flood flows have been observed in the 2006 or 2017 events.*
14. *Effect of and susceptibility to obstruction by landslides, avalanches, ice jams or timber.*
- **STAFF COMMENT:** None anticipated.
 - **APPLICANT COMMENT:** *None*

15. If the applicant or landowner with respect to an application for a conditional use permit under this chapter is the state of Idaho, or any agency, board, department, institution, or district thereof, . . .

➤ **STAFF COMMENT:** Not applicable.

16. The project will not have an adverse impact on potable water sources when the project is located within a wellhead protection area.

➤ **STAFF COMMENT:** The project is not located within a wellhead protection area.

➤ **APPLICANT COMMENT:** This property is not located within a wellhead protection area.

V. DECISION AND POSSIBLE CONDITIONS

Pursuant to Zoning Ordinance §9-33-8, the Hearing Examiner shall enter an order approving, conditionally approving, or disapproving an application within fourteen (14) days after conclusion of the public hearing together with the reasons therefore. The public hearing on this application is set for March 2, 2023.

Any approval or denial of this application will be based upon the information provided as part of this application, which has been referenced herein as Exhibits A-1 through C-2, and upon any additional information which may be provided before or during the scheduled public hearing.

The Hearing Examiner shall also, pursuant to Zoning Ordinance §9-33-8, attach conditions to the approval of request for a conditional use permit as are deemed necessary to protect the rights of all affected property owners and the general welfare.

CONDITIONS (Please discuss with County Floodplain Manager prior to findings):

1. Applicant shall comply with all applicable zoning, building, fire and health district regulations.
2. The work shall be done as specified in application; no work outside that applied for and approved under this permit shall be done. Any modifications to the plans shall require further zoning review, and may be subject to additional regulations pursuant to the Blaine County Zoning Ordinance.
3. The applicant shall provide County Land Use staff with a proposed construction activities schedule. In addition, County Land Use staff shall be notified of the actual start of construction and of any changes to the proposed schedule, so that staff can observe construction activities as necessary to ensure compliance with this FP-CUP.
4. An engineer shall certify in writing that the project was completed per this application.