

## CITY OF GARDEN CITY

6015 Glenwood Street Garden City, Idaho 83714  
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~ Minutes ~

### Planning & Zoning Commission

6:30 PM

Wednesday, August 21, 2019

City Hall – Council Chambers

6015 Glenwood Street, Garden City, Idaho

**I. CALL TO ORDER** The meeting was called to order at 6:30 pm.

#### II. ROLL CALL

Commissioners Present: Chuck Kennedy, James Page, L. Kent Brown, Debbie Jo Pelton, Kent Rasmussen

Commissioners Absent: None

Staff Present: Jenah Thornborrow, Chris Samples

#### III. CHANGES TO AGENDA - ACTION ITEM

- A. SUBFY2019 – 4 and SUBFY2019 – 5 were moved to the consent agenda to be continued to a date certain of September 16, 2019 due to noncompliance with required property posting requirements pursuant to GCC 8-6A-7.
- B. Commissioner Page recused himself from the hearing, noting conflicts of interest with VARFY2019 – 2 and SUBFY2017 -1, and left the hearing.

#### IV. CONSENT AGENDA – ACTION ITEM

- A. July 17, 2019 Minutes
- B. **SUBFY2019 - 4:** Sherry McKibben with McKibben + Cooper Architects and Urban Design are requesting approval of a preliminary plat subdivision located on 34<sup>th</sup>, 35<sup>th</sup>, and Carr Streets. The subdivision is proposed within the 34<sup>th</sup> Street Specific Area Plan. **Staff recommends a continuance to a date certain of September 18, 2019 due to noncompliance with required property posting requirements pursuant to GCC 8-6A-7.:** Continued
- C. **SUBFY2019 -5:** Gary Asin is requesting approval of a two lot combined preliminary/final plat subdivision located at 3588 N. Prospect Way, Ada County Parcel Number R9242370040. The property is described as Lot 4, Block 1, Waterfront District Subdivision. **Staff recommends a continuance to a date certain of September 18, 2019 due to noncompliance with required property posting requirements pursuant to GCC 8-6A-7.:** Continued
  - i. Commissioner Brown moved to approve the consent agenda.
  - ii. Commissioner Pelton seconded.
  - iii. The motion was approved unanimously.

#### V. OLD BUSINESS – ACTION ITEM

#### VI. PUBLIC HEARINGS – ACTION ITEM

- A. **VARFY2019 – 2**: Mark Butler of Land Consultants, Inc. is requesting a variance to the fence height requirements of Garden City Code 8-4A-3 for a new 12-foot-high privacy fence at 520 E. 47<sup>th</sup> Street, Ada County Parcel R2734522991. The fence would be placed on the front property line and along a portion of the southwest side of the 2.33-acre site.
- i. Mark Butler presented the proposed variance.
  - ii. Staff Chris Samples presented the staff report.
  - iii. Debbie Jo Pelton and declared a conflict of interest, recused herself, and left the room.
  - iv. Public testimony was received in support from:
    1. Jason Jones who questioned as to whether the property was out of compliance with City Code, noted that he had filed code enforcement complaints against other properties for fencing and screening compliance, that City property and ACHD property are not complying with screening requirements, and that the property is within code and the owner is being nice to the neighbors
  - v. Public testimony was received in opposition from:
    1. Tracy Bradshaw as president of the Mystic Cove HOA, that the proposal is opposed due to the fence transition height between the existing fence and the new fence, that there is debris from the use on the sidewalk and street, and that internal procedures for the use should be changed to stack cars to 8' in height
  - vi. Mark Butler provided rebuttal testimony, noting that the design review application denial will be appealed, that the fence variance is the solution that his client wishes to pursue, that the screening was requested by Connie Sol with Code Enforcement, and that the new fence would help keep debris inside the yard.
  - vii. Public testimony was closed.
  - viii. Commissioner Rasmussen noted his opposition to the variance and that there was not an undue hardship and noted finding 4 specifically failing due to a lack of undue hardship.
  - ix. Commissioner Brown noted his support for the variance. He cited his previous customer use of vehicle wrecking yards and their need to have vehicle stacking areas. He noted the use has not changed, but the neighborhood has. He noted that stacking areas are difficult to move.
  - x. Chairman Kennedy noted that a variance may not be the most appropriate way to establish a grandfather right to a particular stacking height. He noted that the property owner should consider directly appealing any code enforcement citations to determine if the stacking height is grandfathered. He noted that no other fence in the City is 12' in height and noted a previous owner in 1995 noted in documentation on the record that landscaping was not needed to screen vehicles.
  - xi. Commissioner Brown moved to approve the application in accordance with the draft findings of fact, conclusions of law, and decision.
  - xii. A second on the motion was not received. The motion died for a lack of a second.
  - xiii. Commissioner Rasmussen moved to deny the application based on the application not meeting the required findings, specifically noting a lack of undue hardship (finding 1) and noting finding 4.
  - xiv. A second on the motion was not received. The motion died for a lack of a second.
  - xv. The application was denied due to a lack of a motion.

- B. SUBFY2017-1/PUD2013-2:** Todd Weltner is requesting a recommendation of approval of design changes and of landscaping and wall improvements along the Greenbelt. The project is located at E. 35th St. and N. Prospect Ln., Garden City, ID, 83714.
- i. James Page declared a conflict of interest, recused himself, and left the room.
  - ii. Todd Weltner presented the proposed changes. Todd presented an additional exhibit consisting of a survey of Greenbelt patrons favoring the wall.
  - iii. Staff Chris Samples presented the staff report.
  - iv. Public testimony was received in support from:
    1. Bryan Foerster who noted that non typical developments need non typical approaches, that the wall serves as a retaining wall, that negative perception of the wall is not correct, that landscaping softens the wall, and that the design is positive.
    2. Troy Little who noted that the wall fits along the river and if there was significant negative opposition, it would be an issue.
    3. Kim Trout, who noted he was the attorney for the applicant, but supports the proposal personally and indicated that the wall looks natural along the river, that it is a terrific addition to a terrific development, and noted the lack of opposition
    4. Bryce Vetter in support who noted that the project has taken a long time to complete, that the wall exceeds expectations, and he is excited to see the project move forward
    5. Jim Neill who noted that the wall is within the scope of the approval, that an amendment is not necessary and a waste of time, that the developer's wall solves aesthetic and structural problems, that the wall provides a safety barrier, and looks better than other fencing options.
    6. Jason Jones who noted that the wall does not affect Greenbelt users, that the wall has a positive look and is well received, is a huge improvement to the area, and could help support a future levy system along the Greenbelt.
    7. Chris Riordan in support, but did not wish to testify
    8. Kristin Jones in support but did not wish to testify. Written letter provided to Commission in support of project.
  - v. Public testimony was received in neutral from:
    1. Victor Myers, who did not note opposition to the wall
    2. Andy Haws, who did not note opposition to the wall
  - vi. Public testimony was received in opposition from:
    1. Nancy Baskin, who testified on behalf of herself and her husband Tom Baskin, that she was not against the project but that rules were not followed, that the 3' setback is in conflict with the 6.5' buffer area of the Greenbelt Easement, that no objection was raised concerning the easement when the project was approved, that the wall should be reviewed as it was noted as "TBD" on the plans, that the wall's height violated code, that the wall's 2' setback violates the 3' setback required by the conditions of approval, that she objects to when there are violations to the development code, that she disputes the accuracy of the applicant's survey of Greenbelt patrons, and that self created problems are not hardships.

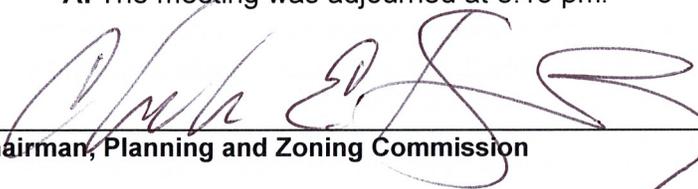
- vii. Todd Weltner provided rebuttal testimony, reemphasizing his arguments and noting the wall could help with flood control.
- viii. Public testimony was closed.
- ix. Commissioner Rasmussen noted that the wall was originally approved at a 3' setback but was built to 2'. He noted his support for the amendments.
- x. Commissioner Pelton noted her support for the amendments but noted that safety lighting could bring attention to the fence and wall.
- xi. Chairman Kennedy noted that lighting was outside the purview of the Commission in this matter.
- xii. Commission Brown noted his support for the amendments. He indicated that the wall was necessary to solve an engineering problem. He indicated a 2' setback was not a significant change. He felt shrubs were an appropriate solution to provide landscaping along the Greenbelt.
- xiii. Chairman Kennedy noted the wall was consistent with and superior to the original approval.
- xiv. Commissioner Rasmussen moved to recommend approval of the proposed amendments as presented.
- xv. Commissioner Pelton seconded.
- xvi. The motion carried unanimously.

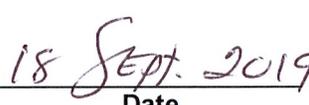
**V. DISCUSSION**

A. The Commission discussed concerns with property posting signs not being completed as required. Staff noted that applicants are repeated reminded of the requirement verbally, in writing, and electronically. The Chairman suggested that a hearing should have to be completely re-noticed if a sign is not posted.

**VI. ADJOURNMENT – ACTION ITEM**

A. The meeting was adjourned at 8:15 pm.

  
Chairman, Planning and Zoning Commission

  
Date