

CITY OF GARDEN CITY

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~ Minutes ~

Planning & Zoning Commission

6:30 PM

Wednesday, September 18, 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, L. Kent Brown, Debbie Jo Pelton, Kent Rasmussen

Commissioners Absent: None

Staff Present: Jenah Thornborrow, Chris Samples

III. CHANGES TO AGENDA - ACTION ITEM

- A. CUPFY2019-13 was moved to the consent agenda after the applicant agreed with the draft decision in the affirmative, no one from the public objected to the proposal, and no commissioner objected to the proposal.
- B. Discussion: Commissioner Brown requested SUBFY2019-5 be heard due to a public comment being received in opposition.

IV. CONSENT AGENDA – ACTION ITEM

A. August 21, 2019 Minutes

B. **CUPFY2019 – 13**: Sarah Baird representing Crown Castle/Sprint is requesting a conditional use permit to expand a legal non-conforming use. The expansion's scope is the addition of telecommunications equipment to an existing wireless communication facility tower. The property is located at 8247 W. State Street, Ada County Parcel R0719420250. Consent agenda approval

- i. Commissioner Rasmussen 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. **CUPFY2019 - 12**: Brian Garrett with OA+D is requesting a conditional use permit for a day care facility. The property is located at 3203 and 3231 W. Chinden Blvd, Ada County Parcel Numbers R2734530430 and R2734530540. (Audio: 5min. 22 sec)
 - i. Brian Garrett presented the proposed conditional use permit.

- ii. Staff Chris Samples presented the staff report.
- iii. Public testimony was heard from:
 - 1. Melissa Levick, in opposition, noting:
 - a. Wife of owner of Western Collective
 - b. No objection to day care facility, but issues with expanding existing use due to nonconforming use potential from school use
 - 2. Cary Pruitt, in opposition, noting:
 - a. Most of our traffic is outside of school hours.
 - b. State of Idaho limits location to two locations
 - c. Goal is to own all property adjacent to existing property.
 - d. Front door from 175 ft. From property line
 - e. Does not oppose school but is concerning about limitations brought about by existing code.
 - f. Expansion would bring their use adjacent to the proposed use
- iv. Rebuttal: Brian Garrett provided the following rebuttal:
 - 1. Is not opposed to Western Collective's location. Willing to work with them on future applications.
- v. Public testimony closed.
- vi. Commissioner Rasmussen supports approval of the application.
- vii. Commissioner Brown agrees with Commissioner Rasmussen. Brown noted that there is not much that can be done with future plans except to apply for an exception to the rules under the codes.
- viii. Commissioner Rasmussen moved to approve the application with the draft decision.
- ix. Commissioner Pelton seconded.
- x. The motioned carried unanimously.

- B. SUBFY2019 - 4:** Sherry McKibben with McKibben + Cooper Architects and Urban Design are requesting approval of a preliminary plat subdivision located on 34th, 35th, and Carr Streets. The subdivision is proposed within the 34th Street Specific Area Plan. **Continued from the August 21, 2019 hearing.** (Audio: 30 min. 02 sec.)
- i. Hannah Ball presented the proposed preliminary plat subdivision.
 - ii. Staff Chris Samples presented the staff report.
 - iii. Public testimony was received from
 - 1. Louis Landry, in personal support of the project, but as President of Fairview Acres WUA, in conditional support. Mr. Landry requested a condition of approval requiring the applicant to enter into a license agreement with the irrigation district prior to the commencement of any irrigation work.
 - 2. Todd Weltner in support but does not wish to testify.
 - iv. Commissioner Rasmussen requested clarification of Commission's role about the irrigation canal and license agreement.
 - v. Staff Samples clarified City Code concerning tiling and that Idaho Code trumps City Code for tiling.
 - vi. Director Thornborrow clarified that Idaho Code protects historical irrigation water flows.
 - vii. Commissioner Brown requested clarification that the Commission cannot compel the applicant to get a permit tile a ditch.
 - viii. Director Thornborrow noted that Garden City Code does want waterways to be left open. The questions that has come before the City is that State Code supersedes City Code. If the district is requested by a property owner to be tiled, the City cannot require it to

remain open. However, Idaho Code does protect the existing conveyance and allows it to remain.

- ix. Rebuttal: Hannah Ball provided the following rebuttal:
 1. Agreement with Fairview Acres WUA for license agreement. However, it is more complicated. Waterways have been filled in. The idea is to get those lines back in operating condition. Before final plat, those details will be worked out.
 2. Ms. Ball referred to Preliminary Plat and identified proposed irrigation lines.
 3. If no agreement can be reached on irrigation use, it will be piped.
- x. Commissioner Brown asked: It's not necessary to put a requirement on you because you understand there will be some kind of agreement with the district just to build your facility?
- xi. Ms. Ball agreed with that statement.
- xii. Public testimony closed.
- xiii. Commissioner Brown supports the project and satisfied with draft conditions and the applicant's explanation concerning irrigation and the need to get a permit. Fairview Acres is in agreement with the applicant. No additional condition concerning irrigation required.
- xiv. Commissioner Pelton indicated she was in support.
- xv. Commissioner Rasmussen indicated he was in support.
- xvi. Commissioner Brown moved to approve in accordance with the draft revised conditions.
- xvii. Pelton seconded.
- xviii. The motion carried unanimously.

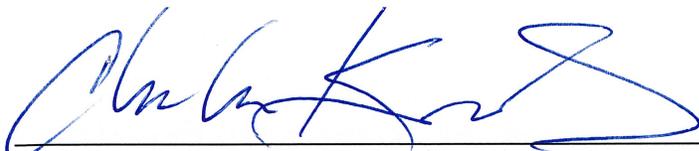
C. **SUBFY2019 - 5:** Gary Asin is requesting approval of a two lot combined preliminary/final plat subdivision located at 3588 N. Prospect Way, Ada County Parcel Number R9242370040. The property is described as Lot 4, Block 1, Waterfront District Subdivision. **Continued from the August 21, 2019 hearing.**

- i. Pat Tealey presented the proposed combined preliminary/final plat subdivision. The applicant noted the email received from Tom and Nancy Baskin on 9/18/2019 at 5:39 pm. Noted that HOA disputes are a civil matter.
- ii. Chairman Kennedy asked if the applicant was bound by the HOA. Applicant noted yes.
- iii. Staff Chris Samples presented the staff report.
- iv. Public testimony was received from Todd Weltner in support but did not wish to testify.
- v. Applicant declined to offer a rebuttal.
- vi. Public testimony closed.
- vii. Rasmussen moved to approve application as presented in draft findings.
- viii. Pelton seconded.
- ix. The motion carried unanimously.

V. DISCUSSION

VI. ADJOURNMENT – ACTION ITEM

- A. The meeting was adjourned at 7:29 pm.



Chairman, Planning and Zoning Commission

23 Oct 2019

Date