

BEFORE THE CITY COUNCIL
GARDEN CITY, ADA COUNTY, IDAHO

THIS IS NOT A PREDETERMINED DECISION. ALL EVIDENCE WILL BE CONSIDERED. A DIFFERENT DECISION MAY RESULT IN AN UPDATE OF THE FINDINGS OF FACT, CONCLUSIONS OF LAW, OR CONDITIONS.

In the Matter of:)	ANNFY2020-01
)	
)	
Annexation and Rezone)	FINDINGS OF FACT
6300 N. Ulmer Lane)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho)	AND DECISION
_____)	

THIS MATTER, came before the Garden City Council for consideration on November 9, 2020. The City Council reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, the City Council makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT

1. The applicant is Josh Beach.
2. The property owner of record is Mcwhirter Revocable Trust.
3. The location of the project is 6300 N. Ulmer Lane; Parcel # R8123254980
4. The subject property is 6.4 acres.
5. The application is for annexation into Garden City corporate limits and a rezone of the property to R-2 Low Density Zoning District.
6. The project is located in the Residential low-density designation of the Comprehensive Plan Future Land Use Map.
7. The project is processed concurrently with a subdivision request file SUBFY2020-07 Perch Meadows Subdivision.
8. The project is processed concurrently with a subdivision application.
9. The project is located in the floodplain according to the 2003 FIRM.
10. The project is located in the floodplain according to the 2017 FIS.
11. The following section of the Garden City Development Code apply to this proposal:

- a. Garden City Code [8-1A-4 Applicability](#)
- b. [Garden City Code 8-2B-1 Purpose](#)
- c. [Garden City Code 8-2B-2 Allowed Uses](#)
- d. [Garden City Code 8-2B-3 Form Standards](#)
- e. Garden City Code 8-6A-3 General Application Process
- f. Garden City Code [8-6A-4 Required Application Information](#)
- g. Garden City Code [8-6A-7 Public Hearing Process](#)

12. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2 Required Application Information			
Provided			
Yes	No	Waived pursuant to GCC 8-6A-4	
X			Preliminary Title Report
X			Neighborhood Map
X			Master Plan
X			Site Plan
X			Topographic Survey
X			Natural Hazard and Resources Analysis
	X		Dedications and Easements

13. Additional application materials submitted include:

- a. Compliance Statement;
- b. Grading Plan;
- c. 300' Neighborhood List;
- d. Application;
- e. Neighborhood Sign-In Sheet;
- f. Recorded Neighborhood Meeting;
- g. Statement of Intent.
- h. Waiver Request

14. The following noticing was completed in accordance with GCC 8-6A-7:

Noticing Requirement	Required Date	Completion Date
Neighborhood Meeting	08/10/2020	03/19/2020
Letter of Acceptance	09/03/2020	09/02/2020
Radius Notice	09/02/2020	03/12/2020
Interested Parties	n/a	n/a
Legal Notice	08/28/2020	08/20/2020 Emailed 08/24/2020 Published
Agency Notice	09/01/2020	08/20/2020
Property Posting Sign	10/11/2020	10/10/2020

Affidavit of Property Posting and Photos	10/11/2020	10/10/2020
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15. On September 16, 2020, a public hearing before the Planning and Zoning Commission was noticed. A request to move to a date certain of October 21, 2020 due to noticing errors was approved on the consent agenda.

16. On October 21, 2020, a public hearing before the Planning and Zoning Commission was held:
 - a. James Jewitt presented the application.
 - b. Staff, Hanna Veal presented the staff report combined with the staff report for ANNEXFY2020-01.
 - c. Public testimony was heard from:
 - i. Steve Toranno at Garden City Hall:
 1. ACHD appears to have made their decision by not allowing access from the subdivision to N. Ulmer Lane.
 2. If the subdivision is to become part of Osprey Meadows, three car garages are needed per dwelling unit not only to match the existing neighborhood, but because the current Osprey Meadows Subdivision HOA does not allow for street parking.
 - ii. Jim Gambrell at Garden City Hall:
 1. More traffic on N. Ulmer Lane would be unbearable
 2. Concerns with the welfare of the Sleepy Hollow community, the children's safety, and the wildlife by adding new homes.
 - iii. Stella Smith via Zoom:
 1. Does not want traffic on N. Ulmer Lane.
 2. Increased traffic diminishes quality of life and property values
 3. Wildlife safety is a concern and does not want to see an increase of roadkill.
 - iv. Tessie Page via Zoom:
 1. Increased traffic is a concern because of the left turn onto State Street from N. Ulmer Lane.
 2. The Garden City Comprehensive plan speaks to protecting neighborhoods from through traffic. The connection to N. Ulmer Lane would only be promoting through traffic.
 3. No parking is desired on Haceta Head curve to Aspen Glenn Way. The community does not have authority to put no parking signs on blind curve.
 4. No objection to the development of the subdivision, on the connection to N. Ulmer Lane.
 5. There is no timeline for the traffic signal on State Street, so the decision should not be based off an unknown date.
 6. Since Covid-19 there has been a lot of traffic and cars parked on the corner of Haceta Head and Aspen Glenn Way. Tried to install no parking signs but it is not legal. This corner is

already a dangerous, adding more vehicles to it will only increase the chances of an accident.

- v. David Bell via Zoom:
 - 1. ACHD is the single entity recommending against connection to N. Ulmer Lane. ITD and Ada County specifically recommend connection to N. Ulmer Lane
 - 2. Not in favor of the additional vehicle trips that are to be generated by the proposed subdivision.
 - 3. ITD notes safety concerns; never will be a stop light at Arney Lane.
 - 4. Garden City Comprehensive Plan speaks to connectivity.
 - 5. All of us don't want to have increased traffic in their neighborhoods.
- vi. Greg Baisch via Zoom:
 - 1. Does not want the development to be a part of the Homeowner's Association.
 - 2. Agrees with David Bell's comments.
 - 3. Agrees with Steve Toronno's comments.
- vii. Bill Barton via Zoom:
 - 1. Objects to any access to N. Ulmer Lane.
- viii. Suzanne Webster via Zoom:
 - 1. Objects to any access to N. Ulmer Lane.
- ix. Sarah Griffin via Zoom:
 - 1. There are many potential accidents at Haceta Head and Aspen Glenn Way between vehicles.
 - 2. Not safe for children or dogs if they were to be around.
 - 3. Detrimental to the community.
- x. Stan Smith via Zoom:
 - 1. Traffic is an issue.
- xi. Eve Mckelery via Zoom:
 - 1. Objects to access to N. Ulmer Lane.
 - 2. If connection is allowed, Perch Meadows will see an increase in traffic because people will use it to get to a light.
- xii. John Beers at Garden City Hall:
 - 1. Happy the that proposed development is not high density or apartments.
 - 2. Of course no one wants extra traffic in their neighborhood.
 - 3. The light on State Street and N. Ulmer Lane needs to go in sooner rather than later, the light will help both neighborhoods.
 - 4. Visibility leaving Arney is worse than when leaving N. Ulmer Lane.
- xiii. Marj Spindler via Zoom:
 - 1. Opposes connection to N. Ulmer Lane.
- xiv. Craig Wood via Zoom:
 - 1. In favor of the connection to N. Ulmer Lane.

2. Ulmer Lane is a much wider road than Arney Lane and there is already a light at Horseshoe Bend to help the subdivisions to the west turn left onto State Street.
 3. Taking N. Boggart Lane is not a realistic option for the subdivisions to the west.
 4. The proposed subdivision is essentially a cul-de-sac that feeds into Arney Lane as a connector road for all of Riverside Drive.
 5. Arney Lane feeds all of Riverside Drive.
 6. Riverside Drive neighborhoods are trapped currently in regard to getting onto State Street and the issue will only get worse.
 7. Mcleary's Pub at the corner of Arney and State Street proves to create a visibility problem. It also often has parking overflow onto the street.
 8. The intersection of Arney and State Street might turn into a right only turn with a U-turn located east, just to be able to go west on state street.
- xv. Andrew Hyman via Zoom:
1. Bike and pedestrian access to N. Ulmer Lane is okay.
 2. Connection to St. Lukes to Glenwood will create a steady stream of traffic through the subdivisions.
 3. Open access to both Arney and N. Ulmer Lane is a mistake.
 4. Neighborhood is already suffering due to speeders.
- xvi. Rob Ridgeway via Zoom:
1. Opposed to N. Ulmer Lane connection.
 2. Consider making Lakeland Village a gated community on N. Ulmer Lane.
- d. Jim Jewitt provided rebuttal and addressed:
- i. The ability to join Osprey Meadows is up to the HOA board.
 - ii. The proposed subdivision is the last significant parcel in the area.
 - iii. Osprey Meadows has always intended to develop the parcel of land in the way it is currently proposed.
- e. Rebuttal discussion included:
- i. Commissioner Pounds asked if the applicant was willing to pay for the gates for the gated community entrances.
 - ii. Commissioner Pelton mentioned that accessing N. Ulmer Lane across the Dry Creek Canal has not been allowed, however sewer and pedestrian access could be allowed.
- f. Public testimony was closed.
- g. Discussion:
- i. Chairman Brown:
 1. Arney lane is a collector street while N. Ulmer Lane is a local street, as determined by ACHD.
 2. Right-of-way is inadequate if it were to be open due to it only being 30' wide, the required street sections is 47'.

3. The discussed intersection of Charlie Lane and N. Ulmer Lane to the proposed subdivision cannot make a T-intersection, therefore ACHD will not consider it due to the safety concerns that the geometry and angles create.
 4. Ulmer lane and Arney Lane are both dangerous intersections and have similar traffic patterns and flows.
 5. State Street will, in the future, have a median, and right outs with a U-turn to go west will be the expected traffic pattern.
- ii. Commissioner Pounds:
 1. The decision before the Commission is a decision that puts them between a “rock and a hard spot”.
 2. Cannot control ACHD.
 3. Would feel better if ACHD and ITD would provide a plan of what they intend to do.
 4. Does not think the Commission should approve proposal.
 - iii. Commissioner Wilde:
 1. Thanks for testimony and flushing out issues.
 2. Agrees with Commissioner Pounds about being between a ‘rock and a hard spot’.
 3. Understands those with need to access State Street.
 4. Chairman articulated issues with punching through to N. Ulmer Lane.
 5. Developer has done due diligence at looking at access
 6. Supportive of not accessing N. Ulmer Lane.
 - iv. Commissioner Pelton:
 1. Thanked public and developer.
 2. Noted issues with safety.
 3. A light will be going in at N. Ulmer Lane.
 4. Housing is needed.
 5. In approval.
 - v. Commissioner Rasmussen:
 1. Thanked fellow Commissioners and public participation
 2. This application highlights how difficult infill can be.
 3. Light going in at N. Ulmer Lane.
 4. Noted preference to connect to N. Ulmer Lane. If N. Ulmer Lane connection cannot happen, then in favor as proposed.
 5. In favor of a detached sidewalk.
 - vi. Chairman Brown:
 1. Noted that Arney Lane is too close to Bogart to install a light at Arney Lane.
 2. Commissioner Rasmussen
 3. It matters what we say as a preference.
 - vii. Commissioner Pounds
 1. We don’t know when improvements will be made to the State system.
 2. Either connection creates an unsafe situation.

- viii. Chairman Brown
 - 1. The subdivision would not exceed the adopted level of service on Arney Lane or State Street and is not flagged as one of the places in the valley for unsafe conditions.
 - h. Commissioner Rasmussen moved to approve the application as drafted in the draft decision in the affirmative with draft conditions of approval. With additional amendments to include the following conditions:
 - i. Prioritization of connectivity to N. Ulmer Lane. If connection proves to be impossible, the application can be approved as presented.
 - i. Commissioner Pelton seconded the motion.
 - j. Discussion included:
 - i. Commissioner Wilde:
 - ii. The applicant has done due diligence and has identified that the connection to N. Ulmer Lane is not viable.
 - iii. Chairman Brown:
 - 1. The light at the intersection of State Street and N. Ulmer Lane is probably at least 10 years into the future.
 - 2. As a substitution motion, Commissioner Rasmussen moved to approve the subdivision and annexation application as drafted in the draft decision in the affirmative with draft conditions of approval. With additional amendments to include the following conditions:
 - 3. Detached sidewalks are to be installed in the subdivision
 - k. Commissioner Wilde seconded the motion
 - l. Discussion Included:
 - i. Detached sidewalks offer pedestrian safety as well as aesthetic appeal for the new neighborhood
 - m. The motion carried on a 3/1 vote with Commissioner Pounds dissenting.
17. On November 9, 2020, a public hearing before the City Council was held:
- a. This section will be completed after the hearing
18. The record contains:
- i. Application
 - j. Compliance Statement
 - k. Letter of Intent
 - l. Plan Sheets:
 - m. Will Serve Letter
 - n. Noticing Documents:
 - i. Neighborhood Meeting Verification
 - ii. Letter of Acceptance
 - iii. Radius Notice
 - iv. Interested Parties Notice
 - v. Legal Notice
 - vi. Agency Notice
 - vii. Affidavit of Property Posting and Photos

- viii. Agenda Posting
- ix. Website Posting
- x. Decision Notification
- o. Agency Comments:
 - i. Central District Health
 - ii. Ada County Development Services
 - iii. Idaho Transportation Department
- p. September 16, 2020 Planning and Zoning Hearing Minutes
- q. September 16, 2020 Planning and Zoning Hearing Audio
- r. October 21, 2020 Planning and Zoning Hearing Minutes
- s. October 21, 2020 Planning and Zoning Hearing Audio
- t. Planning and Zoning Recommendation
- u. November 9, 2020 City Council Hearing Minutes
- v. November 9, 2020 City Council Hearing Audio

19. In consideration of a combined preliminary plat subdivision the City Council shall make the following findings:

The draft findings are written based on the recommendations from the Planning and Zoning Commission. The City Council will review all evidence, and the draft findings may be updated based on their review and consideration.			
GCC 8-6B-10 Zoning Map Amendment and Annexation: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X			<p>Standard: The zoning map amendment complies with the applicable provisions of the comprehensive plan;</p> <p>Explanation: The R-2, Low-density residential, achieves Garden City’s Comprehensive Plan’s goals for the residential low-density designation of the Comprehensive Plan.</p>
X			<p>Standard: The zoning map amendment complies with the regulations outlined for the proposed district, specifically the purpose statement;</p> <p>Explanation: The proposed density of 3.7 units per acre of single-family dwelling units aligns with the purpose statement of the R-2 low density zoning district.</p>

X			<p>Standard: The zoning map amendment shall not be materially detrimental to, or impacts can be mitigated that affect, the public health, safety, and welfare or impacts;</p> <p>Explanation: The annexation of the property in a manner that is consistent with the Comprehensive Plan and is positively impacting the City’s ability to achieve the desired vision as identified in the Comprehensive Plan.</p> <p>Uses that which are permitted within the R-2 zoning ordinance are considered to be in line with the Comprehensive Plan’s vision of that district.</p>
X			<p>Standard: The zoning map amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city including, but not limited to, school districts;</p> <p>Explanation: There is no evidence that the rezone of the subject property to low density residential will affect the City’s ability to provide services to the subject property.</p>
X			<p>Standard: The annexation of land, if proposed, is in the best of interest of the city and complies with the procedures as set forth in Idaho Code section 50-222.</p> <p>Explanation: The surrounding land is within the City of Garden City’s city limits, therefore, the category A annexation is in the best interest of the city code and complies with the procedures as set forth in Idaho Code section 50-222.</p>

20. The record was reviewed by the City Council to render the decision.

CONCLUSIONS OF LAW

The City Council reviewed the application with regard to Garden City Code, Title 8, and based on the conditions required herein, concludes the application satisfies the required findings under **GCC 8-6B-10 Zoning Map Amendment and Annexation**.

DECISION

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and the Garden City, City Council hereby does **APPROVES/DENIES** of ANNEXFY-01 and is subject to the following conditions:

1. The Planning and Zoning Commission has recommended approval of the application to rezone the subject property to R-2 Low-density residential district.
2. Every final decision is subject to a regulatory taking analysis pursuant to section 67-8003, Idaho Code. An applicant denied an application or aggrieved by a final decision concerning matters identified in section 67-6521(1)(a), Idaho Code, may within twenty-eight (28) days after all remedies have been exhausted under local ordinance seek judicial review under the procedures provided by chapter 52, title 67, Idaho Code.
3. Any applicant or affected person seeking judicial review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought. Upon reconsideration, the decision may be affirmed, reversed or modified after compliance with applicable procedural standards. A written decision shall be provided to the applicant or affected person within sixty (60) days of receipt of the request for reconsideration or the request is deemed denied. A decision shall not be deemed final for purposes of judicial review unless the process required in this subsection has been followed. The twenty-eight (28) day time frame for seeking judicial review is tolled until the date of the written decision regarding reconsideration or the expiration of the sixty (60) day reconsideration period, whichever occurs first.
4. If any term or provision of this decision, to any extent, is held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

John G. Evans, Mayor

Date