

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: |) | SUBFY2020-07 |
| |) | |
| |) | |
| Combined Preliminary Plat Subdivision |) | FINDINGS OF FACT |
| Perch Meadows Subdivision |) | CONCLUSIONS OF LAW, |
| 6300 N. Ulmer Lane |) | AND DECISION |
| Garden City, Ada County, Idaho |) | |
| _____ |) | |

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 a Combined Preliminary Plat Subdivision.
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 an annexation and rezone request Garden City’s R-2 low density zoning district.
8. The project is located in the floodplain according to the 2003 FIRM.
9. The project is located in the floodplain according to the 2017 FIS.
10. The following section of the Garden City Development Code apply to this proposal:
 - a. Garden City Cod 8-2B: Base Zoning District Regulations
 - b. Garden City Code 8-5: Land Division Regulations
 - c. Garden City Code 8-4A: Design and Development Regulations – General

Provisions

- d. Garden City Code 8-4B: Design and Development Regulations – Design Provisions for Residential Structures
- e. Garden City Code 8-4D: Parking and Off-Street Loading Provisions
- f. Garden City Code 8-4E: Transportation and Connectivity Provisions
- g. Garden City Code 8-4H: Flood Hazard
- h. Garden City Code 8-4G: Sustainable Development Provisions
- i. Garden City Code 8-4I: Landscaping and Tree Protection Provisions
- j. Garden City Code 8-4L: Open Space Provisions
- k. Garden City Code 8-6A: Administration – General Provisions
- l. Garden City Code 4-14: Storm Drainage and Erosion Control
- m. Garden City Code Title 6: Public Water and Sewer Systems

11. The following plans and policies apply to this proposal:

- a. Garden City Comprehensive Plan
- b. Garden City Sidewalk Policy
- c. Garden City Street Light Policy

12. The applicant provided the following application information:

| Materials Provided Per GCC Table 8-6A-2 Required Application Information | | | |
|---|----|----|---|
| Provided | | | |
| Yes | No | NA | |
| X | | | Preliminary Title Report |
| X | | | Subdivision Map |
| X | | | Soils Report |
| X | | | Hydrology Report |
| X | | | Engineering Drawing and Specifications |
| X | | | Natural Hazards and Resources Analysis |
| | X | | Dedications and Easements |
| X | | | Compliance Statement |
| X | | | Neighborhood Map |
| X | | | Site Plan |
| X | | | Landscape Plan |
| | | X | Schematic Drawings |
| | | X | Lighting Plan |
| | | X | Topographic Survey |
| X | | | Grading Plan |
| X | | | Will Serve |
| X | | | Verification that address is an Ada County Approved Address |
| X | | | Subdivision name and reservation |

13. 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 | 9/11/2020 10/10/2020 10/29/2020 |
| Affidavit of Property Posting and Photos | 10/11/2020 | 9/11/2020 10/10/2020 10/29/2020 |

14. On September 8, 2020 a pre-application conference was held with the Design Review Committee. The Commission provided the following comments and requests:
 - a. To what extent has the applicant tried to work with connections from the proposed subdivision to N. Ulmer Lane. Have they reached out to Dry Creek Canal, HOA, or ACHD?
 - b. What are the plans for the extra remnant of land on the eastern property line? Are the intentions to extend the common drive into that remnant for future development?
 - c. Detached sidewalks are required.
 - d. New landscaping plans to determine compliance with code.

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 September 21 2020, a public hearing before the Design Review Committee was held:
 - a. Josh Beach and Jim Jewett presented the application.
 - b. Staff, Hanna Veal, presented the staff report.
 - c. Public testimony was heard from:
 - i. Paul Calverley, neutral, testifying concerning the existing fence placement with something solid and questioning who the developer is.
 - ii. Sandra Sweet, in opposition, testifying concerning the confusion between the developer and the applicant. The comments made by ACHD and ITD regarding the right-of-way off N. Ulmer Ln. vacation. Requests copy of staff report for neighborhood HOA.
 - iii. Steve Torrano, in opposition, testifying concerning the staff reports support of the connection to N. Ulmer Ln. Army St. exit is not capable of handling more traffic created by the subdivision. Addresses

- comments made by ACHD allowing the right-of-way to be vacated. Proposed homes and lots are not compatible with the surrounding neighborhoods.
- iv. David Hume, in opposition, testifying that access to N. Ulmer Ln. should be utilized to provide more appropriate vehicle and pedestrian connectivity than the proposal to only use Arny Ln. The irrigation district south of State Street has part of their irrigation exit into Dry Creek Canal. Irrigation water distribution system will no longer be ditches, presume that it will be buried, and perpetual maintenance will be the subdivisions responsibility.
 - v. Allie Gooding, in opposition of the proposed entrance and exit of the subdivision, testifying concerning the unsafe conditions at the intersection of Arny Ln. and State St. Traffic accumulates due to west turning vehicles and fears that the proposed subdivision will only create a bigger issue. Impatient drivers cut through McLeary's parking lot. Wants connection to N. Ulmer Ln.
 - vi. David Bell, in opposition, testifying concerning the increased vehicle traffic in the surrounding neighborhoods. Questioned why there was no lighting plan submitted. Biggest concern is access to N. Ulmer Ln. as it seems to provide the safest exit onto State St.
 - vii. Scott Coluthier, testifying concerning the car trip generations produced by the proposed subdivision and how it would affect N. Ulmer Ln. N. Ulmer Ln. would not be able to handle the new development's traffic loads, in addition to the Riverside Village and Osprey Meadows traffic.
 - viii. Ron Millar, Osprey Meadows HOA President, testifying concerning the access to N. Ulmer is essential for anyone wanting to travel west on State St.
- d. Jim Jewett provided rebuttal testimony.
 - i. Riverside Drive and Arny Ln. are the two access points.
 - ii. ACHD previously did not allow access to N. Ulmer Ln.
 - iii. Made subdivision lots to be similar size of those surrounding neighborhoods.
 - iv. Will apply for vacation of spite strips between preliminary and final plat approval.
 - v. Intends to allow for future greenbelt pathways.
 - vi. Willing to create detached sidewalks.
 - vii. Investigation into tree mitigation.
 - e. Public Hearing was closed.
 - f. Committee Member Labrie moved to approve the application as conditioned in the draft decision with the addition of conditions:
 - i. Attached sidewalks are permitted.
 - ii. Propose connections to N. Ulmer Ln.
 - iii. Preserve the potential for a future greenbelt pathway
 - iv. HOA can determine the kind of fencing used.
 - g. Committee Member Gresham seconded the motion.

- h. The motion passed unanimously.
17. 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.
18. The record contains:
- a. Application
 - b. Compliance Statement
 - c. Letter of Intent
 - d. Plan Sheets:
 - e. Will Serve Letter
 - f. 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
 - g. Agency Comments:

- i. Central District Health
- ii. Ada County Development Services
- iii. Idaho Transportation Department
- h. September 8, 2020 Pre-App Design Review Committee Hearing Minutes
- i. September 8, 2020 Pre-App Design Review Committee Hearing Audio
- j. September 16, 2020 Planning and Zoning Hearing Minutes
- k. September 16, 2020 Planning and Zoning Hearing Audio
- l. September 21, 2020 Design Review Committee Hearing Minutes
- m. September 21, 2020 Design Review Committee Hearing Audio
- n. October 21, 2020 Planning and Zoning Hearing Minutes
- o. October 21, 2020 Planning and Zoning Hearing Audio
- p. Design Review Recommendation
- q. Planning and Zoning Recommendation
- r. November 9, 2020 City Council Hearing Minutes
- s. November 9, 2020 City Council Hearing Audio

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

| | | | |
|---|---|------------------|---|
| <p>The draft findings are written based on the recommendations from the Planning and Zoning Commission and the Design Review Committee. The City Council will review all evidence, and the draft findings may be updated based on their review and consideration.</p> | | | |
| GCC 8-5B-5: SUBDIVISION PROCESS: REQUIRED FINDINGS | | | |
| Conclusion | | | |
| Compliant | Not Applicable to this Application | Not Compliant | Standard |
| X | | | <p>Finding: The subdivision is in conformance with the Comprehensive Plan;</p> <p>Explanation: The Perch Meadows Subdivision is located within the residential low-density designation of the comprehensive plan. Single Family dwelling units proposed for this subdivision are a permitted and use in this zone.</p> |
| X | | | <p>Finding: Public services are available or can be made available; and are adequate to accommodate the proposed development;</p> <p>Explanation: The existing public services infrastructure for water and sewer can</p> |

| | | | |
|---|--|--|---|
| | | | service the proposed subdivision project. |
| X | | | <p>Finding: The subdivision is in conformance with scheduled public improvements in accord with the city's capital improvement program;</p> <p>Explanation: The proposed subdivision does not effect the proposed public improvements schedule.</p> |
| X | | | <p>Finding: There is public financial capability of supporting services for the proposed development</p> <p>Explanation: The application has met this finding. The public road will be serviced by ACHD.</p> |
| X | | | <p>Finding: The development will not be detrimental to the public health, safety or general welfare;</p> <p>Explanation: As conditioned or as proposed, the subdivision is not considered to be detrimental to the public health or safety beyond that of which is reasonable as noted in the transportation agency reviews.</p> |
| X | | | <p>Finding: The development preserves significant natural, scenic or historic resources</p> <p>Explanation: The Subdivision preserves the natural landscape around the Dry Creek Canal.</p> <p>The application being in a floodplain does not require special development considerations that cannot be addressed through the floodplain development permit and construction plan review and approval, therefore it is acceptable to process this application as a combined preliminary and final plat application.</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 8-5B-5.

DECISION

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and decision, the Garden City, City Council hereby does **APPROVES/DENIES** of SUBFY2020-07 for a Combined Preliminary Plat Subdivision and subject to the following conditions:

Specific Requirements:

1. The annexation and rezone application ANNFY2020-01 is completed.
2. This approval is for a combined preliminary plat for a residential subdivision encompassing 29 lots – 24 designated for residential use, and 5 common lots.
3. A detached sidewalk **is/ is not** required.
4. Vehicular connection to N. Ulmer Lane **is/ is not** required.
5. All construction must meet code requirements at the time of development.
6. All pressure irrigation systems must meet requirements and obtain city engineer approval prior to construction.
7. The applicant must receive design review approval of the homes, either staff level or Committee level, whichever is applicable.
8. The applicant must provide a Flood Acknowledgment record on the property if they do not do not build at or above the FEMA 2017 flood standards.
9. All proposed driveways must be a minimum of 20' in width.
10. All installed sidewalks must be detached from the public street and must be a minimum of five feet (5') in width.
11. All new residential developments over four dwelling units must achieve six points in the Sustainable Development Provisions.
12. The applicant must provide adequate parking as designated by Garden City Code 8-4D.

General Requirements:

1. The approval is specific to the application provided and reviewed.
2. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained.
3. The applicant shall comply with all requirements of the reviewing entities.
4. The CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho".
5. The approved addresses and a copy of the recorded plat must be provided to the City prior to the City considering the subdivision complete.
6. All improvements and operations shall comply with applicable local, state and federal requirements and procedures whether specifically addressed in the analysis of this

- application or not. This shall include but not be limited to 8-4A General Provisions of Design and Development Regulations; 8-4I-3 and Landscape maintenance provisions 8-4I-9; and standards for transportation and connectivity provisions identified in 8-4E.
7. The Development Services Director may enter into a restricted build agreement on the City's behalf, provided the agreement is in compliance with the approved restricted build agreement policies.
 8. All utilities on the site, including telephone, cable television, and electrical systems shall be underground and in compliance with Garden City Code 8-4A-8.
 9. Required easements must either be on the plat or provided in a recordable document that includes a legal description and illustration.
 10. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
 11. The property owner is responsible for the maintenance of all landscaping and screening devices required.
 12. Driveway openings in curbs shall comply with the requirements of the Transportation Authority. The driveway shall be straight or provide a 28-foot inside and 48-foot outside turning radius.
 13. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead plant materials shall be replaced.
 14. Where landscaping might impact motorist or pedestrian sight distance, shrubs shall be maintained below three feet (3') in height and trees shall be pruned so that the lowest branches will be at least seven feet (7') above the ground level.
 15. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
 16. Retain and protect existing trees, vegetation, and native soils and integrate these features into the overall landscape plan as required by or exempted from Garden City Code 8-4I and as shown in the approved landscape plans.
 17. Required landscape areas shall be at least seventy percent (70%) covered with vegetation at maturity, with mulch used under and around the plants. Use of mulch, organic or rock as the only ground cover in required planting areas is prohibited.
 18. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
 19. All planting areas that border driveways, parking lots, and other vehicle use areas shall be protected by curbing, wheel stops, or other approved protective devices.
 20. Trees shall be planted at least three feet (3') from curbs, sidewalks, driveways and other hard surfaces to buffer from stress caused by vehicle overhang and compacted soils, or planted with sufficient space to provide for the full maturity of the particular tree species.
 21. All other plant material, except sod or ground cover, shall be set back a minimum of one foot (1') from any curb edge to protect from vehicle overhang and mechanical damage.
 22. The landscape installation shall stabilize all soil and slopes.
 23. All outdoor living spaces must comply with Garden City Code 8-3C General Provisions- Living Space Requirements.

24. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
25. System Installation Required: Each and every lot within the subdivision shall have underground pressurized irrigation water. The pressurized irrigation system shall be constructed and installed at the same time as the domestic water lines, but shall not necessarily be in the same trenches.
26. The property owner is responsible for the maintenance of all landscaping and screening devices required.
27. Cross-Connections: All cross-connections between the domestic water lines and the irrigation water lines shall be in accord with the City's adopted standards, specifications and ordinances.
28. Utility easements that are unobstructed by permanent structures shall be provided along front lot lines, rear lot lines, and side lot lines when deemed necessary by the City Engineer. Total easement width shall not be less than ten feet (10'), with twelve feet (12') recommended, front and rear, with at least twenty feet (20') required for water and sewer easements for main lines.
29. Unobstructed easements, including but not limited to, drainage, water, sewer, and pedestrian easements shall be provided as required by the City.
30. Materials submitted after the decision shall not be considered part of the record for this decision. If additional materials or information is submitted after the decision the application may be remanded to the decision making body during which time the decision shall be stayed provided that there is no immediate threat to life or safety.
31. Any changes in the design, construction, operation or use shall be brought to the immediate attention of the Planning Official for determination if the changes are in substantial conformance with the City's action. Any modification to approved plans shall require submittal and approval of these modifications prior to construction and recordation of the final plat. Any changes to the plans and specifications upon which this approval is based, other than those required by the conditions noted in this decision, will require submittal of an application for modification and approval of that application prior to commencing any change. Final approval is based on substantial conformance with the plans reviewed and approved.
32. Any substantial changes to the design shall be reviewed by the Design Review Committee for compliance with Garden City Code 8-4. Any other changes that are not in substantial conformance with the approval shall be remanded to the decision-making body.
33. The applicant shall submit payment to the City for all outstanding fees incurred by the City in obtaining a review of this project prior to the City issuing any permits or signing the final plat.
34. In the event that an applicant and/or owner cannot complete the non-life, safety and health improvements, within the time specified in the final subdivision approval or prior to occupancy, the City may require a surety agreement in accordance Garden City Code. Unless financial guarantees of improvement completion has been accomplished, no approval of the final subdivision or recording thereof shall be permitted unless the applicant provides satisfactory proof that all required public

improvements and facilities have been fully and satisfactorily constructed and installed.

35. Approval of this subdivision shall become null and void if the applicant fails to record a final subdivision within one (1) year of the approval. Development shall commence within two (2) years of approval. If the timetable is not met and the applicant does not receive a time extension, the application will expire and become null and void.
36. Time extensions as determined and approved by the City Council may be granted. With all extensions, the City Council may require the preliminary subdivision or combined preliminary and final subdivision to comply with the current regulations.
37. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned. Occupying the site for reasons beyond construction prior to a Certificate of Occupancy is a criminal offense.
38. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
39. Pursuant to Idaho Code, a request for reconsideration must be submitted within 14 days of the final decision and prior to judicial review. The written request must identify specific deficiencies in the decision for which reconsideration is sought.
40. A takings analysis pursuant to Idaho Code may be requested on final decisions.
41. 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