

BEFORE THE PLANNING AND ZONING COMMISSION  
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
6300 N. Ulmer Lane	)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho	)	AND RECOMMENDATION
_____	)	

THIS MATTER, came before the Garden City Planning and Zoning Commission for consideration on September 16, 2020 and continued to a date certain of October 21, 2020 due to noticing errors. The Planning and Zoning Commission reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, the Commission makes the following Findings of Fact, Conclusions of Law and Recommendation:

**FINDINGS OF FACT**

1. The applicant is Josh Beach.
2. The property owner of record is Beverly Joan McWhirter.
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 in the RUT Zoning District of Ada County. A category A annexation application, ANNEXFY2020-1, was submitted to the City. As part of the annexation the RUT zoning district will be changed to 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:

<b>Materials Provided Per GCC Table 8-6A-2 Required Application Information</b>			
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	10/10/2020
Affidavit of Property Posting and Photos	10/11/2020	10/10/2020

1. On September 8, 2020, in accordance with GCC 8-6B-10, 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.
  
2. On September 16, 2020, a public hearing before the Planning and Zoning Commission was held. The request to move to a date certain of October 21, 2020 due to noticing errors was approved.
  
3. On September 21 2020, a public hearing before the Design Review Committee was held:
  - I. Josh Beach and Jim Jewett presented the application.
  - II. Staff, Hanna Veal, presented the staff report.
  - III. Public testimony was heard from:
    - a. Paul Calverley, neutral, testifying concerning the existing fence placement with something solid and questioning who the developer is.
    - b. 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.

- c. 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.
  - d. 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 Army 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.
  - e. Allie Gooding, in opposition of the proposed entrance and exit of the subdivision, testifying concerning the unsafe conditions at the intersection of Army 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.
  - f. 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.
  - g. 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.
  - h. Ron Millar, Osprey Meadows HOA President, testifying concerning the access to N. Ulmer is essential for anyone wanting to travel west on State St.
- IV. Jim Jewett provided rebuttal testimony.
- a. Riverside Drive and Army Ln. are the two access points.
  - b. ACHD previously did not allow access to N. Ulmer Ln.
  - c. Made subdivision lots to be similar size of those surrounding neighborhoods.
  - d. Will apply for vacation of spite strips between preliminary and final plat approval.
  - e. Intends to allow for future greenbelt pathways.
  - f. Willing to create detached sidewalks.

- g. Investigation into tree mitigation.
- V. Public Hearing was closed.
- VI. Committee Member Labrie moved to approve the application as conditioned in the draft decision with the addition of conditions:
  - a. Attached sidewalks are permitted.
  - b. Propose connections to N. Ulmer Ln.
  - c. Preserve the potential for a future greenbelt pathway
  - d. HOA can determine the kind of fencing used.
- VII. Committee Member Gresham seconded the motion.
  - a. The motion passed unanimously.

4. On October 21, 2020, a public hearing before the Planning and Zoning Commission was held:

- a. This section will be completed after the hearing

14. 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. Signed Findings of Fact, Conclusions of Law and Recommendation

15. In consideration of a Combined preliminary plat subdivision the Planning and Zoning Commission shall make the following findings:

<p><b>The draft findings are written both in approval and in denial. The Planning and Zoning Commission will select the corresponding findings in their motion for a decision.</b></p>			
<p><b>GCC 8-5B-5: SUBDIVISION PROCESS: REQUIRED FINDINGS</b></p>			
<p>Conclusion</p>			<p>Standard</p>
<p><b>Compliant</b></p>	<p><b>Not Applicable to this Application</b></p>	<p><b>Not Compliant</b></p>	
<p><b>X</b></p>			<p><b>Finding:</b> The subdivision is in conformance with the Comprehensive Plan;</p> <p><b>Explanation:</b> 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>
<p><b>X</b></p>			<p>Finding: Public services are available or can be made available; and are adequate to accommodate the proposed development;</p> <p><b>Explanation:</b> The existing public services infrastructure for water and sewer can handle the proposed subdivision project.</p>
<p><b>X</b></p>			<p>Finding: The subdivision is in conformance with scheduled public improvements in accord with the city’s capital improvement program;</p> <p><b>Explanation:</b> The proposed subdivision is expanding the existing sidewalk and creating new vehicular connections for the neighborhood. The public improvements to both the road and sidewalks.</p>
<p><b>X</b></p>			<p>Finding: There is public financial capability of supporting services for the proposed development</p>

			<b>Explanation:</b> The application has met this finding. The public road will be serviced by ACHD.
		X	<p>Finding: The development will not be detrimental to the public health, safety or general welfare;</p> <p><b>Explanation:</b> The subdivision development, while proposing the attached sidewalks for better pedestrian safety and connectivity, does not propose vehicular connectivity through to N. Ulmer Lane. By only using Arney Lane, the public health, safety and general welfare of the surrounding area is negatively impacted.</p> <p>The proposed development, while being able to handle the anticipated traffic and increased densities, does not provide the safest route for vehicular access to the subdivision.</p>
		X	<p>Finding: The development preserves significant natural, scenic or historic resources</p> <p><b>Explanation:</b> The Subdivision preserves the natural landscape around the Dry Creek Canal; however, it does not expand it nor does it utilize it as an amenity.</p>

16. The record was reviewed by the Planning and Zoning Commission to render the decision.

### CONCLUSIONS OF LAW

The Planning and Zoning Commission 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.

### RECOMMENDATION

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and Recommendation, the Garden City Planning and Zoning Commission hereby recommends **APPROVAL/DENIAL** of SUBFY2020-07 for a Combined Preliminary Plat Subdivision and subject to the following conditions:

**Site Specific Requirements:**

1. All construction must meet zoning standards at the time of development.
2. All pressure irrigation systems must meet requirements and obtain city engineer approval prior to construction.
3. The applicant must submit schematic drawings, building designs, building materials, etc. to Design review for approval.
4. The applicant must provide a Flood Acknowledgment record on the property in the instance that they do not build to FEMA 2017 flood standards.
5. All proposed driveways must be a minimum of 20' in width.
6. All installed sidewalks must be detached from the public street and must be a minimum of five feet (5') in width.
7. All new residential developments over four dwelling units must achieve six points in the Sustainable Development Provisions.
8. The applicant must provide adequate parking as designated by Garden City Code 8-4D.
9. This approval is for a combined preliminary plat for a residential subdivision encompassing 29 lots – 24 designated for residential use, and 5 common lots.
10. The applicant must provide documentation the Osprey Meadows subdivision HOA is willing to annex the project.

**General Requirements:**

1. The applicant shall comply with all requirements of the reviewing entities.
2. 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.
3. The CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho".
4. 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.
5. Required easements must either be on the plat or provided in a recordable document that includes a legal description and illustration.
6. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
7. The property owner is responsible for the maintenance of all landscaping and screening devices required.
8. 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.

9. 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.
10. 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.
11. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
12. 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.
13. 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.
14. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
15. 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.
16. 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.
17. 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.
18. The landscape installation shall stabilize all soil and slopes.
19. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
20. 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.
21. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to final plat signature.
22. The approval is specific to the application provided and reviewed.
23. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained.
24. The property owner is responsible for the maintenance of all landscaping and screening devices required.
25. 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.

26. 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.
27. Unobstructed easements, including but not limited to, drainage, water, and sewer easements shall be provided as required by the City.
28. 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.
29. 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.
30. 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.
31. No subdivision plat required shall be recorded by the Ada County Recorder until such subdivision plat has received final approval by the Council. No public board, agency, Commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by this Title until final plat has received the approval by the Council.
32. 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.
33. 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.
34. Approval shall become null and void if the applicant fails to record a final subdivision within one (1) year of the 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.
35. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.

36. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
37. 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.
38. A takings analysis pursuant to Idaho Code may be requested on final decisions.
39. 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.

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Chairman, Planning and Zoning Commission

Date

**IN DENIAL**

1. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
2. 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.
3. A takings analysis pursuant to Idaho Code may be requested on final decisions.
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.

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Chairman, Planning and Zoning Commission

Date