



DEVELOPMENT SERVICES DEPARTMENT

6015 Glenwood Street ■ Garden City, Idaho 83714
Phone 208/472-2921 ■ Fax 208/472-2996 ■
www.gardencityidaho.govoffice

To: City Council
From: Jenah Thornborrow, Development Services Director
Subject: SUBFY2019-1 second extension request
Date: For February 2, 2021 City Council Meeting

Request

Extension of subdivision [SUBFY2019-1](#) Blue Heron Subdivision for an additional year.

Background

Blue Herron Subdivision, SUBFY2019-1 located at 3857 Reed Street was approved by City Council on March 11, 2019 by the City Council. The application was granted an extension on January 22, 2020 due to an ACHD requirement that twelve months of ground water be collected. Since that time, the project ownership has changed hands. The project's engineering firm has noted that the continued delays are related to the street design. It was unanticipated that ACHD would require that the realignment of Reed Street to be build by the project from the center of asphalt rather than the center of right-of-way, resulting in redesign of components of the project to meet the Garden City Code sidewalk requirements and ACHD's street requirements.

Pertinent Code

Below are the current sections of pertinent code related to this request.

Title 8, Chapter 6, Article A, Section 8 ("Expiration of Approvals"):

- A. All application approvals shall expire three hundred sixty five (365) days from the date of approval unless:
- 1) the city issues a building permit for the proposed improvement, development, or use prior to the expiration of the three hundred sixty five (365) day period; or
 - 2) by condition of approval or development agreement, a time period for completion of the application has been specified; or
 - 3) a certificate of compliance has been issued; or
 - 4) The final plat of a subdivision approval is recorded with Ada County; or otherwise defined by section [8-5B-6](#) of this title.
- B. City Council may allow for an extension of not more than three hundred sixty-five (365) days provided that they find:
1. Good cause for the request; and
 2. The application and/or applicable city regulations have not changed; and

3. There has been no major change in the neighborhood, plans, or policies that would affect the compatibility of the project; and
4. The subject property is compliant and has been compliant, or actively pursuing compliance with all city, state and federal codes and laws since the date of application; and
5. It is determined by the City Council that it is in Garden City's best interest to grant the extension.
6. A request for an extension is no guarantee that the extension will be granted.

Attachments

- Extension Request
- Draft potential City Council Decision

From: [Joseph Canning](#)
To: [Jenah Thornborrow](#); [Hanna Veal](#); [building](#)
Subject: Blue Heron Subdivision - SUBFY2019-1
Date: Wednesday, January 27, 2021 4:57:59 PM

Please consider this e-mail as a formal request for a time extension for the subject project.

Please advise if any other action is needed.

Thank you,

Joe Canning, PE/PLS
Senior Engineer
B & A Engineers, Inc.



B. & A. Engineers, Inc.

Consulting Engineers, Surveyors & Planners
5505 West Franklin Road Boise, ID 83705
Voice: 208.343.3381 Fax: 208.342.5792
Web: <http://www.baengineers.com>

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B & A Engineers, Inc.

Consulting Engineers & Land Surveyors
5505 West Franklin Rd. Boise, ID 83705
Telephone 208.343.3381 Facsimile 208.342.5792

January 28, 2021

Garden City Development Services
Elizabeth Schenstrom
6015 Glenwood Street
Garden City, Idaho 83714
Telephone: 208.472.2921

Subject: **Blue Heron Subdivision**
SUBFY2019-01/MLDFY2019-2

The application for SUBFY2019-01/MLDFY2019-2 for Blue Heron Subdivision expires on January 27, 2021. We are requesting an extension per Garden City Code GCC 8-6-8. Two major issues slowed progress:

1. The project changed hands and now belongs to Todd Campbell Construction Inc.
2. During production of the construction plans ACHD required that the road be widened from the existing centerline of the asphalt rather than from the centerline of the right-of-way. This has caused most of the delays in starting construction trying to meet both ACHD and Garden City street and sidewalk development requirements.

We currently have revised plans submitted to Garden City and ACHD that we believe will meet the requirements of both agencies. If plans are approved construction will start as soon as permits are in place.

We respectfully request that the City Council approve a time extension.

Please let us know of any questions.

Sincerely,

Earl Eblen, PE/PLS
B & A Engineers, Inc.

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:)	SUBFY2019-1
)	
Extension Request)	FINDINGS OF FACT,
Address: 3857 N. Reed Street)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho)	AND DECISION
_____)	

THIS MATTER, came before the Garden City Council for consideration on February 8, 2021. The City Council reviewed the request. Based on the evidence presented, pursuant to Garden City Code § 8-6-A. 8 and 8-5B-6 (as amended in 2018 by Ordinance 1002-18), the City Council makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT

1. The requestor is Earl Eblen with B&A Engineers, Inc.
2. The property owner is Todd Campbell Construction, Inc.
3. The location of the project is 3857 N. Reed Street, Garden City, ID 83714; Ada County Parcels R2734520646 and R2734520044.
4. The application was approved for one year by City Council on March 11, 2019.
5. The City received a one-year extension request in writing on January 22, 2020 noting:
 - a. Recommendation for 12 months of ground water data to be collected, as required by ACHD.
6. A one-year permit extension was granted on January 27, 2020.
7. The City received a second extension request in writing on January 27, 2021 and a revised request in writing on January 28, 2021 noting:
 - a. The project has changed hands; and
 - b. Unanticipated road widening requirement from ACHD requiring that the

application construct from the center of the asphalt rather than the center of the right-of-way causing delays in the project due to the requirement to meet both ACHD and Garden City street and sidewalk requirements.

8. The following standards in the Garden City Code apply to this proposal:

<p>Potential conclusions have been drafted in the affirmative and in disaffirmance. The Council may agree with one or the other of the conclusions or may find a different conclusion. These conclusions of law are not predetermined.</p>		
Standards	Compliant	Conclusions
GCC 8-5B-6 Term of Subdivision Permit	N/A	Not applicable with an extension approval.
GCC 8-6A-8 Expiration of Approvals	Yes/ No/ N/A	<p>1. Good Cause exists for the request:</p> <p><u>Explanation:</u> AFFIRMING Good cause for the request exists. The project has changed hands. Furthermore, the application is not meeting Garden City Code's timeframes largely due to unforeseen requirements related to Reed Street that has required substantial time and effort to resolve.</p> <p>DISAFFIRMING Good cause does not exist for the request. There are not extenuating circumstances that have been identified by the request that warrant an extension.</p> <p>2. The application and or applicable regulations have not changed.</p> <p><u>Explanation:</u> AFFIRMING There has not been a substantial change in the application nor has there been changes in applicable regulations.</p> <p>DISAFFIRMING TBD</p>

	<p>3. There has not been change in the neighborhood, plans or policies that affect the compatibility of the project:</p> <p><u>Explanation:</u> AFFIRMING There has not been change in the neighborhood, plans or policies that affect the compatibility of the project.</p> <p>DISAFFIRMING TBD</p> <p>4. The property is compliant and has been compliant, or actively pursuing compliance with all city, state, and federal with codes and laws since the date of approval:</p> <p><u>Explanation:</u> AFFIRMING The application has been actively pursuing being complaint with all applicable laws, thus resulting in lack of adherence to the applicable timeframes.</p> <p>DISAFFIRMING The project has not received construction plan approval and is therefore unable to demonstrate that it has the capability to complete the required improvements as required by GCC 8-5A.</p> <p>5. It is in the City's best interest to grant the extension:</p> <p><u>Explanation:</u> AFFIRMING It is in the City's best interest to grant the extension.</p> <p>DISAFFIRMING It is not in the City's best interest to grant the extension as the project</p>
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		<p>has not been able to demonstrate its ability to advance the subdivision within a reasonable timeframe. Garden City Code 8-5B-6 notes expiration of subdivisions shall occur within one year. No discernible momentum on the project has been demonstrated regardless of a previous extension approval.</p>
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CONCLUSIONS OF LAW

The City Council reviewed the application with regard to Garden City Code, Title 8, and concludes the application **does/ does not** meet the standards of approval under G.C.C. § 8-6-A.8.

DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Garden City Council does hereby **Approve/ Deny** this request for an extension of the subdivision approval.

1. **The subdivision approval extension request has been approved for one year, to da date of February 8, 2022.**
2. Final decisions may be subject to judicial review pursuant to the Idaho Administrative Procedures Act, Chapter 65 Title 67 Idaho Code.
3. A takings analysis pursuant to Idaho Code may be requested on certain final decisions.

Mayor, John G. Evans

Date