



## 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:** SUBFY2021-0002 Extension Request  
**Date:** For February 14, 2022, City Council Meeting

### **Request**

Extension of subdivision [SUBFY2021-0002](#) Forty-Fifth Place Subdivision for one-year.

### **Background**

Forty-Fifth Place Subdivision, SUBFY2021-0002 located at 4535 & 4539 Adams Street and 314 E. 45<sup>th</sup> Street was approved by City Council on February 22, 2021, by the City Council.

The request notes:

1. Work commenced immediately upon Council approval and has progressed continuously from that time.
2. Plan approval and coordination has taken longer than usual.
3. Plan approval is anticipated in the next few months.
4. There has been no major change to the neighborhood, plans, or policies that would affect the compatibility of the project.

### **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



January 5, 2021

Garden City Development Services  
Hanna Veal  
6015 Glenwood St.  
Garden City, ID 83714

**RE: Forty Fifth Place Subdivision / SUBFY2021-0002**

Dear Hanna,

On behalf of Tyson Wise, owner of the Forty Fifth Place Subdivision property, I am requesting a one year time extension of the approved preliminary and final plat. The City Council approved the preliminary and final plat on February 2, 2021. Work on the final design for the project commenced immediately upon Council approval and has progressed continuously from that time. Coordination for plans approval with Development Services, the City Engineer and ACHD to finalize the civil engineering and landscape plans, and similar for approval of the architectural plans are on-going and have taken longer than usual. We expect plans approval in the next few months, but not in time for the processing and recording of the final plat.

There has been no major change to the neighborhood, plans, or policies that would affect the compatibility of the project.

Please schedule this request as soon as practical for City Council hearing. Your consideration of this request and scheduling for hearing is greatly appreciated.

Sincerely,

A handwritten signature in blue ink that reads 'David Powell'.

David Powell, P.E.  
Project Engineer

A handwritten signature in black ink above a horizontal line. The signature is stylized and appears to read 'Tyson Wise'. Below the line, the text 'Tyson Wise, Owner' is printed.

Tyson Wise, Owner

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:	)	SUBFY2021-0002
	)	
Extension Request	)	FINDINGS OF FACT,
4539 & 4535 N. Adams St., 314 E. 45 <sup>th</sup> St.)	)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho	)	AND DECISION
_____	)	

THIS MATTER came before the Garden City Council for consideration on February 14, 2022. The City Council reviewed the request. Based on the evidence presented, pursuant to Garden City Code § 8-6-A. 8 and 8-5B-6, the City Council makes the following Findings of Fact, Conclusions of Law and Decision:

**FINDINGS OF FACT**

1. The applicant is David Powell.
  2. The property owner of record is 45<sup>th</sup> & Adams LLC.
  3. The subdivision is located at 4535 & 4539 N. Adams St. and 314 E. 45<sup>th</sup> St.
  4. Ada county Assessor parcel number(s):
    - a. R2734500168 described as NW 1/2 OF LOT 17 BLK 1 EXC R/W FAIRVIEW ACRES SUB NO 01 #1110-B.
    - b. R2734500162 described as PAR #0162 OF LOT 16 BLK 1 FAIRVIEW ACRES SUB NO 01 #0159-B.
    - c. R2734500152 described as PAR #0152 OF LOT 16 BLK 01 FAIRVIEW ACRES SUB NO 01 #0150-S.
1. The application was approved for one year on February 22, 2021.
  2. The city received a one-year extension request in writing noting:
    - a. Work commenced immediately upon Council approval and has progressed continuously from that time.
    - b. Plan approval and coordination has taken longer than usual.

- c. Plan approval is anticipated in the next few months.
- d. There has been no major change to the neighborhood, plans, or policies that would affect the compatibility of the project.

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

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.		
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>  <b>AFFIRMING</b>            Good cause for the request exists. Work commenced immediately upon Council approval and has progressed continuously from that time. Plan approval and coordination has taken longer than usual. Finally, plan approval is anticipated in the next few months.</p> <p><b>DISAFFIRMING</b>            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>  <b>AFFIRMING</b>            There has not been a substantial change in the application nor has there been changes in applicable regulations.</p> <p><b>DISAFFIRMING</b>            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>  <b>AFFIRMING</b>  There has not been change in the neighborhood, plans or policies that affect the compatibility of the project.</p> <p><b>DISAFFIRMING</b>  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>  <b>AFFIRMING</b>  There are no current known violations of the property.</p> <p><b>DISAFFIRMING</b>  TBD</p> <p>5. It is in the City's best interest to grant the extension:</p> <p><u>Explanation:</u>  <b>AFFIRMING</b>  It is in the City's best interest to grant the extension. The subdivision extension request notes that the plat is near recordation. Moreover, the region needs additional housing.</p> <p><b>DISAFFIRMING</b>  It is not in the City's best interest to grant the extension as the project has not been able to demonstrate its ability to advance the subdivision within a reasonable timeframe.</p>
--	--	---

		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.
--	--	---

**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 22, 2023.
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