

## DEVELOPMENT SERVICES DEPARTMENT

6015 Glenwood Street ■ Garden City, Idaho 83714  
Phone 208/472-2900 ■ Fax 208/472-2996

**TO:** Mayor and Council  
**FROM:** Jenah Thornborrow, Development Services Director  
**DATE:** 11/12/2019  
**SUBJECT:** Response to PUD2013-00002 (SUBFY2017-1) Bridge Townhome Subdivision Planned Unit Development Reconsideration Request

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### **APPLICANT REQUEST**

PUBLIC HEARING to reconsider and void actions on September 9, 2019 and September 23, 2019 resulting in the denial of PUD2013-00002 (SUBFY2017-1) amendment requests to the Bridge Townhomes Subdivision planned unit development approvals.

### **BACKGROUND**

On May 8, 2017, the Council approved subdivision and planned unit development, file numbers, SUBFY2017 – 1 / PUD2013-00002, for the Bridge Townhomes Subdivision.

During the September 9, 2019 meeting the City Council denied what was understood to be an application for the modification of certain site-specific conditions of approval for the Bridge Townhomes Subdivision, approved as Planned Unit Development. The amendments that were denied included:

1. Allow for code requirement waivers for the fence height GCC 8-4A-3C-1 landscape requirements GCC8-4I, and a further encroachment into required setbacks 8-2B-3.
2. Amend site specific condition # 7 to allow the installation of shrubs along the Greenbelt instead of trees.
3. Amend site specific condition #12 to allow a 2' setback along the Greenbelt for the retaining rock wall and the fence instead of 3'.
4. Amend site specific condition 28a to allow lots 5 and 7-15 to contain a retaining wall and fence within 2' from the edge of pavement.
5. Add site specific condition #29 to approve an 8' tall wall for the already constructed retaining rock wall.

At the September 23, 2019 Council Meeting, the City Council approved written Findings of Fact, Conclusions of Law and Decision consistent with their denial. On October 4, 2019, Todd Weltner's attorney, Kim Trout, submitted a Request for Reconsideration with the City. On October 7, 2019, Kim Trout submitted a Supplemental Request for

Reconsideration. During the October 14, 2019 Council Meeting City Council granted the reconsideration request. The public hearing for the Reconsideration request was noticed for November 12, 2019.

## **ALLEGATIONS**

Below is a synopsis of the allegations identified by Kim Trout in his Requests for Reconsideration submitted to the City on October 4, 2019 and on October 7, 2019. The requests as submitted by Kim Trout are included in the packet. The allegations as stated below have been reworded for succinctness.

1. A process that is not provided for in the Garden City Code was utilized which required the Developer to proceed on previously non-existent process in order to move project toward obtaining Certificates of Occupancy.
2. The variance process should have been utilized rather than amending the Planned Unit Development, and therefore the City Council lacks authority and jurisdiction to act on this matter.
3. The Planning and Zoning Commission's recommendation from August 21, 2019 should constitute an approval of a variance request.
4. City knew about size and location since May 2018.
5. City failed to act on knowledge of wall, thus any process available to the City to act on the wall has been waived.
6. There is no requirement for the developer to submit engineer drawings or design for the retaining wall as part of its required submittals to the City.
7. The City failed to identify what steps the Developer can take to obtain approval.
8. City failed to provide notice of applicant's right to a regulatory taking analysis pursuant to section Idaho Code 67-8003
9. Garden City Code 8-4A-3 has been misinterpreted and misapplied.

## **RESPONSE TO ALLEGATIONS**

### **1. Allegation**

A process not provided for in the Garden City Code was utilized which required the Developer to proceed on previously non-existent process in order to move project toward obtaining Certificates of Occupancy.

### **Response**

This allegation is correct. The Bridge Townhome project has not followed standard processes. The City has responded to several of the developer errors by negotiating processes outside of standard practices in efforts to agreeably assist the forward progression of Bridge Townhome subdivision as well as in response to Kim Trout's threat of lawsuit if the City required Todd Weltner to follow standard procedures.

### **Evidence**

### Process Deviation 1: Subdivision Entitlements

The preliminary plat application was approved on January 13, 2014. On February 12, 2016 the applicant was notified that the application had expired on January 13, 2016. It was not until March 22, 2016 that the applicant requested an extension. The City Council granted the extension regardless of the time lapse as well as a code amendment that affected the approvals of the subdivision (GCC 8-5B-6 at the time allowed for the City to require a subdivision to comply with current conditions of the code as part of the extension request). The final plat was then received for the February 27, 2017 City Council Hearing but was remanded to Design Review and the Planning and Zoning Commission due to substantial changes from the preliminary plat approvals, yet City Council honored previous code to be applied to those changes as well.

### Process Deviation 2: Work without a permit- foundations

On December 12, 2017 Todd Weltner was notified via email that building permits would not be issued until the subdivision was recorded, as is standard procedure in Garden City, and most local jurisdictions. On January 18, 2018 after Jim Neill notified Mayor Evans that the footings for the buildings would be poured on January 22, 2018, the City reminded Todd Weltner via email that he did not have building permits, and that the City would be willing to work with him to provide a partial release outside of the standard practices in order to grant his request to expedite the process. The City drafted an agreement clarifying that it is outside standard practices but would allow for the developer to proceed without the typically required steps in place. The agreement specified that without the subdivision being completed prior to the building permits that there is risk to the developer as the subdivision approvals would supersede the building permit approvals. The agreement further noted that the permits were limited in scope to the foundations only until after the recordation of the final plat. This was signed by the City and available to Todd Weltner on January 29, 2018. On February 8, 2018 the City was notified that the footings were poured without the required building permit. On February 8, 2018 Todd Weltner emailed Jenah Thornborrow, in response to her phone call that notified him that work had been done without the permit, acknowledging that they had “got ahead of ourselves”. The agreement was then signed by Todd Weltner on February 9, 2019 and notarized.

Each of the subsequently issued building permits (provided to Todd Weltner and required to be posted on site) stated the limitation of the permit to foundation work only.

### Process Deviation 3: Work without a permit- combustible materials

During the week of June 2, 2018 Tom Abbott, Building Official, identified work without permits on all the Bridge Townhome Subdivision lots. He verbally noted to Todd Weltner that the work had to cease, or a Stop Work Order would be issued. Work continued, and on June 11, 2018 a Stop Work Order was issued by Mr. Abbott. On June 12, 2018 Todd Weltner acknowledges in an email that the Final Plat has not been recorded. On June 12, 2018 an email was sent to Todd Weltner and Kim Trout clarifying that the Stop Work Order could not be lifted without the permits first being issued. Between June 12, 2018 and June 14, 2018 Todd Weltner visited City Hall and verbally indicated to staff that he intended on ignoring the Stop Work Order. On June 14, 2018 it was verified that the work had continued by an inspection conducted by Kevin Wallis. On June 14, 2018 a Cease and Desist was issued by Angela Lythgoe of the Garden City Police Department. Kim Trout and Todd Weltner met with staff related to the Stop Work Order. It was noted by Development Services staff that the framing that was subject to the Stop Work Order appeared to be non-compliant with the plans that the Design Review Committee had approved. Kim Trout indicated intent to sue if work was not permitted regardless of the lack of required permits. The City agreed to conditionally approve most of the permits in an expeditious manner so that Todd Weltner could proceed regardless of the significant staff loading that it generated as well as delays that it caused to other projects. The Subdivision Plat was recorded June 14, 2018. On June 15, 2018 Todd Weltner entered into a formal agreement for the expedited permits for the permits that were complaint with approvals but requiring that the work that was being done outside of approvals cease until there was Design Review Committee approval of the changes made.

#### Process Deviation 4: Property trespass

Lot 18 was constructed in such a way that the stormwater and roofline trespassed into the neighboring property. Garden City Environmental Division negotiated 'spot drains' to be installed at the base of the rain gutters and Todd Weltner requested cutting off the soffit of the subject structure to remove the trespass issue as identified in point #9 in the document submitted with the Planned Unit Development modification Request dated May 23, 2019.

#### Process Deviation 5: Third work without a permit- Retaining wall in question

The City Council is now faced with further negotiations with Todd Weltner and Kim Trout to remedy the error of the developer by building without a permit, outside of the approved conditions, within the Greenbelt easement, and outside of the parameters of code.

## **2. Allegation**

The variance process, Garden City Code 8-6B-9 [Specific Provisions] for a variance should have been utilized rather than amending the Planned Unit Development,

Garden City Code 8-6B-7, [Specific Provisions] Planned Unit Development, and therefore the City Council lacks authority and jurisdiction to act on this matter.

### **Response**

This allegation is incorrect. Amending the Planned Unit Development is an appropriate vehicle and within processes identified in code. City Council does have jurisdiction on this matter. Furthermore, variances are intended to establish for modifications from the bulk and placement requirements of Title 8. While the applicant is asking for relief from code standards they are also asking to nullify and change required conditions of their planned unit development approval. This is outside of the identified applicability of **Garden City Code 8-6B-9 VARIANCE**.

### **Evidence**

Evidence: The City Council approved conditions of approval for PUD2013-00002 (SUBFY2017-1), dated May 8, 2017 include:

- Site specific condition # 7 requiring trees along the Greenbelt.
- Site specific condition #12 and #28 requiring a 3' setback along the Greenbelt for the retaining wall.
- Site Specific condition #7 requiring frontage onto the Greenbelt
- General Condition #39 noting that changes specific to design may be reviewed by the Design Review Committee but all other changes that are not in substantial conformance with the approvals shall be remanded to the decision body

Evidence: **Garden City Code, Table 8-6A-1 Authorities and Processes** 1. Indicates that modifications to an approved permit is heard by the same decision maker and process as initial approval. 2. The table identifies the Design Review Committee and Planning and Zoning Commission as recommending bodies to the City Council as the final decision maker for Planned Unit Developments.

Additionally, Garden City Code **8-6A-10 SUBSTANTIAL CONFORMANCE** states:

*A. All development shall be constructed or carried out in conformance with the approval, conditions of approval, and mitigation measures adopted by the city in review of the development application.*

*C. Any changes that are not in substantial conformance with the approval shall be remanded to the decision-making body.*

### **3. Allegation**

The Planning and Zoning Commission's recommendation from August 21, 2019 should constitute an approval of a variance request.

## **Response**

Todd Weltner made the application as a Planned Unit Development modification request. It was processed and reviewed as a modification to an approved Planned Unit Development. If Kim Trout, who has testified at the hearings on behalf of Todd Weltner, and Todd Weltner disagreed with the process, they could have indicated disagreement in their testimony, with staff, or by submitting a Variance application.

Different processes and required findings apply to a Variance request. If the applicant is requesting that this be processed as a Variance, the City Council should remand the request to the Planning and Zoning Commission for the request to be reviewed within the parameters of a Variance.

## **4. Allegation**

City knew about size and location of the wall since May 2017.

## **Response**

Kim Trout references the City Council's approval date of the Subdivision of May 8, 2017 as when the City was supposedly aware of the location and size of the wall. This allegation is incorrect.

The City was made aware of the wall during the July 16, 2018 Design Review Committee meeting to remedy the work that had been done outside of Design Review approvals identified during a stop work order issuance. Both Todd Weltner and Kim Trout were present during this meeting. On July 19, 2018 the City clarified with Todd Weltner that the Design Review Committee's assertion that the wall was not approved was valid.

## **Evidence**

Evidence A: All plans submitted to the City for review related to the wall including the documentation for subdivision approval, the subdivision construction plans, and building plans noted the wall as TBD (to be determined) and NTS (not to scale).

Evidence B: Audio from March 20, 2017 Design Review (one of the meetings with the Design Review Committee resulting in their recommendation of approval to City Council for the May 8, 2017 hearing) confirms the following was discussed (starting at 2h:28m - 2h: 40m of the audio)

1. Todd Weltner: Specifies that it is a 'landscape' wall.
2. Todd Weltner: Told the committee that the proposed wall was a couple of feet from the easement and that the pavement was narrower than the easement.

3. Todd Weltner: When asked how tall wall is, he stated that it was about 4'.

Evidence C: Audio from Design Review Committee July 16, 2018 meeting (52:22-1:05:26 min of audio)

1. Committee Member Gresham states: "I do have a question about the rock wall. It is a lot taller than your plans previously stated that it would be".
2. Committee Member Labrie noted that previous documentation provided to the committee states 3' maximum.
3. Through the discussion Todd Weltner counters that the referenced 3' maximum is the maximum of the individual height of each boulder.
4. Committee discusses the wall is not what was conveyed and is not representative of what was approved.
5. Todd Weltner claims that the civil drawings approved the wall height.
6. Process was explained that construction plans (civils) come after the entitlement approvals and are not reviewed by the decision-making bodies.
7. Todd Weltner stated that that the wall is 7' in height.
8. The fact that Garden City Code does not allow a 7' fence was pointed out. Discussion noted that there was not a waiver granted for the height in the PUD approvals. There was recollection that the approvals required dual frontage. It was noted that if there was a condition to front the Greenbelt any fence over 3.5' would be an issue. It was clarified that if it can be considered the rear any fence or wall over 6' would need a waiver. It was further noted that an 8' fence would not be appropriate because the adjacent use is not commercial.
9. Todd Weltner stated "we are trying to get a building permit"
10. Committee responded that they can be separate issues and approved the building elevations.

Evidence D: Email dated July 19, 2018 from Jenah Thornborrow to Todd Weltner  
*"I was unaware of the wall issue myself until it came up at the meeting. From the documentation that I have found at this point there might be an issue.*

*Site specific condition of approval #17 requires that lots 1-15 front on the greenbelt.-attached.*

*Note 11 of the landscape plans of the approved construction plans note the wall as "TBD".-attached*

*The elevations that you provided in your email, do not show it, but there is a "NTS" (typically read as 'not to scale').-print screen below"*

Evidence E: The approved civil plans, approved 6-6-2017 do not identify the specifications of the wall.

## 5. Allegation

City failed to act on knowledge of wall, thus any process available to the City to act on the wall has been waived.

### **Response**

The City did act on the wall immediately. The issue with the wall was identified during a Design Review Committee meeting intended to remedy a Stop Work Order. In conjunction with that Stop Work Order the City had just negotiated to allow for work to continue while the applicant retroactively obtained appropriate entitlements. Furthermore, the Design Review Committee, at that meeting, specified that the wall could be a separate issue from the building elevations.

Within three days of the issue coming to light Todd Weltner had confirmation from the City that the Design Review Committee was correct that there were not approvals for the wall in place.

Todd Weltner was told that the wall would need to be compliant prior to any Certificate of Occupancy on any building. Todd was aware this is how the matter would be addressed as soon as it was identified. Furthermore, the City has proactively pursued discussions with Todd Weltner identifying his errors in his development and paths forward. An example of the City's proactive and supplementary efforts with this project is on March 27, 2019, Garden City staff Christian Samples, Mark Jones, and Troy Vaughn met with Todd Weltner and Dave Crawford to discuss issues identified by the City without formal inspection requests from the applicant. The topics discussed included that curbing had been built over a waterline in a Garden City water easement, the eave trespassing into the neighboring property, and a reminder that the wall would need to be addressed prior to Certificates of Occupancy being issued.

However, regardless if staff addressed the issue or not there is no statute that would nullify the City from being able to require compliance of the project.

### **Evidence**

Evidence that Todd Weltner knew about this issue and the requirement that it would need to be dealt with prior to Certificate of Occupancy is documented in an email from Todd Weltner to Christian Samples dated April 2, 2019 where he states: *"Were you able to determine if it is possible to build a "curb" along the Greenbelt (for the planter area) to alleviate the boulder retaining wall height issue? And whether it is acceptable to simply move the half-high section of the fence along the top of that wall back 3' or so that it is not considered part of the wall? I am meeting with our architect this afternoon to review our list of D/R issues and would like to include these items in our discussion."*

### **6. Allegation**

There is no requirement for the developer to submit engineer drawings or design for the retaining wall as part of its required submittals to the City.

## **Response**

This allegation is incorrect.

## **Evidence**

Evidence A: **Garden City Code Table 8-6A-2 REQUIRED APPLICATION INFORMATION** requires engineering drawings and specifications to be submitted with a subdivision application.

Evidence B: The City Council approved conditions of approval for PUD2013-00002 (SUBFY2017-1), dated May 8, 2017 include:

- General Condition #3 requiring any changes to plans to be submitted to the City for review.

Evidence C: Construction Document Review by Kegan Garcia, Assistant Planner, 6-2-2017 states: "Any changes to the plans and specifications upon which this approval is based, other than those required by the above conditions, will require submittal of an application for modification and approval of that application prior to commencing any change. Changes by applicant or required by any agency shall be submitted to the City for review."

## **7. Allegation**

The City failed to identify what steps the Developer can take to obtain approval.

## **Response**

The City did tell Todd Weltner what he could do to obtain approval when the City originally approved the project on May 8, 2017 by virtue of approving the project. The requested modifications to the application do not negate the approvals of the application, they only don't approve of the requested amendments to the project and waivers from City Code.

## **8. Allegation**

City failed to provide notice of applicant's right to a regulatory taking analysis pursuant to section Idaho Code 67-8003.

## **Response**

This allegation is incorrect.

## **Evidence**

All decision documents from Design Review Committee and Planning and Zoning Commission as well as the City Council related to this application include this notice. They are included as attachments.

## **9. Allegation**

Garden City Code 8-4A-3 has been misinterpreted and misapplied.

## **Response**

Interpretation and application of code as it relates to the subject wall is not straight forward.

The Bridge Townhomes project does not clearly fit within the parameters of code on many levels. It is permissible only through a variety of waivers from code, as allowed through the Planned Unit Development process.

The units in 'building B' lack a street and are accessed from a driveway and the Greenbelt. This creates challenges in applying the code which assumes clear front, rear, and side yards, including many provisions that are constructed based on the applicable yard. Furthermore, as code requires that all lots have access to a street, it assumes that front yards have streets, rather than multiple homes being developed off of a common drive.

Due to spacing constraints the applicant did not want to plant trees in the yard adjacent to the driveway of 'building B'. Per the requirements of Garden City 8-4I-4 trees are required in the front yard setback. In navigating the application of 8-4I-4 requirements of trees in the front yard, the applicant collaborated with the Design Review Committee that the lots adjacent to the Greenbelt have a 'dual-frontage' so that the required trees could be planted adjacent to the Greenbelt instead in the drive. The approvals were conditioned accordingly.

Todd Weltner and Kim Trout were aware that the maximum height for the wall was interpreted as 3.5' in height since the Design Review Committee meeting on July 16, 2018, and Todd Weltner had this confirmed via email on July 19, 2018 Email dated July 19, 2018 "*Site specific condition of approval #17 requires that lots 1-15 front on the greenbelt.-attached.*" With this being said, there is nothing in code that compels that the Greenbelt be considered the 'front yard'.

Also, typically, code that is utilized is the code in effect at the time of review. For example sites and structures that were built decades ago must adhere to current standards should they make changes to their site or structures. With that being said, the City approved the subdivision with the wall parameters unspecified. It would not be unreasonable to utilize code at the time of the planned unit development as the regulating code for the wall as part of the previously approved project.

Kim Trout argues that "existing grade" should be the "finished grade" as it pertains to the review of fences and walls. This argument is problematic in that Garden City Code also has specifications where "finished grade" is specified. Thus, code assumes a difference between the two terms. "Existing grade" is reasonably interpreted to mean grade prior to work being done. Secondly, Kim Trout argues that grade means highest adjacent grade. Grade in its totality should be considered not just one side. Per Kim Trout's argument, perhaps one side of the

wall would only be a couple of feet tall and therefore would be compliant, but the fact of the matter is that the other side of the wall is noncompliant and still needs to be remedied.

Whether current code, or code in effect at time of the subdivision approvals is utilized, or the wall is considered to be at the front or the rear of the homes, a waiver for an 8' wall would need to be granted for the wall to comply. Council does have the authority to grant this waiver under the planned unit development process.

**RECEIVED**  
CITY CLERK'S OFFICE

October 4, 2019

**OCT 04 2019****SENT VIA: E-Mail**City of Garden City  
c/o Charles Wadam  
6015 Glenwood Street  
Garden City, ID 83714  
cwadams@gardencityidaho.org**EMAILED: N/A**  
**TIME: 11:33 a.m.**  
*Sm, City Treasurer/Clerk*

Re: Bridge Town Homes - SUBFY2017-1- Request for Reconsideration

Dear Mayor Evans and Members of Garden City, City Council, City Clerk, and City Attorney:

On behalf of Surfer's Paradise, LLC, Owner and Developer of the Bridge Townhomes Subdivision ("Developer"), the following is Developer's respectful request for reconsideration of the Garden City's action, reflected by the action of the City Council regarding SUBFY2017-1 dated September 23, 2019.

The following is a timeline of relevant events for consideration:

- |  |   |
|--|---|
| January 9, 2017 – Final Plat Submittal | Includes all Elevations, including Sheet BLDG. B_062818 evidencing the retaining wall/step system adjacent to Brownstone Buildings within development |
| May 8, 2017 – S.P. City Council        | <b>City on Notice (1st Notice)</b><br>Approved  |
| June 28, 2018 – Design Review Meeting  | Retaining wall height and location on agenda for meeting and no action taken by City Staff with respect to retaining wall height or location.         |
| July 18-19, 2018                       | <b>City on Notice (2nd Notice)</b><br>City Staff/Development Director aware of height and location of the wall.                                       |
|  | <b>City on Notice (3rd Notice)</b>  |

March 2019

Victor Myers complains to City and City requires a re-evaluation of roof overhang and retaining wall height. City Staff/Development Director creates process, requiring Design Review, Planning and Zoning and City Council Approval

### **City on Notice (4th Notice)**

Garden City Development Code is contained in Title 8 of the Garden City Municipal Code. A summary of the applicable code sections to this reconsideration are as follows:

Title 8-1A-1 defines the purpose of Title 8 to be the “official zoning and subdivision ordinances of the city.”

Title 8-1A-2’s purpose is to carry out the “local land use planning act.”

Title 8-1A-4 states that “this title shall apply and govern development and use of all properties” within Garden City.

Title 8-1A-5 defines “council” as the City Council and the “commission” being the Planning and Zoning Commission.

Title 8-6B is the “Specific Provisions” to the Development Code, and defines the process for the administration of specific types of applications, including Planned Unit Developments.

Title 8-6B-7 defines the applicability and general provisions for the provision of “well planned developments which conform to the objectives of this title, but may deviate in certain respects from the zoning map and the district regulations.” A full and complete copy of this title is included herein, for your ease of use.

Title 8-6B-9 was implemented to “establish procedures for modification from the bulk and placement requirements of this title.” The entirety of the Variance section of the Garden City Code is attached hereto for your ease of use. However, the process is very clear: “A variance shall be allowed only upon the approval of an application by the commission, subject to the requirements of this chapter, a showing of undue hardship because of unique physical characteristics of the site, and that the variance is not in conflict with the public interest.”

These are the applicable ordinances, as adopted by Garden City, and as applicable to Planned Unit Development (“PUD”). Developer’s PUD was approved May 8, 2017. It is important to note, that in the more than 1,500 words contained in 8-6B-7, there is no provision for a change, modification, or amendment to a PUD. In other words, the only procedure for altering a PUD is

through following and complying with the procedures and findings contained in Title 8-6B-9. As highlighted above, the authority for a variance of the PUD has been fully and completely vested in the commission, i.e. the Planning and Zoning Commission, not the Council. The obvious failure of the Garden City procedure, can simply be contrasted with for example, see e.g. City of Meridian's ordinances for how a modification of a PUD is to be processed. Contrast, how the City of Garden City has only the process of 'variance' for modification of the PUD.

The City, through Jenah Thornborrow, created a non-existent process, which is not provided for in the Garden City Code. The City, through the Development Director, required the Developer to proceed on the previously non-existent process in order to move the project toward obtaining Certificates of Occupancy. In short, the Development Director held the project hostage through this self-created process. What should have occurred, is the Development Director should have simply directed the Developer to request a formal variance as provided by Garden City Ordinance.

Developer's request was, in essence, a request for a variance. The hearing by the commission was the same hearing that would have been held by the commission had the Development Director simply applied the Garden City Code. The commission approved the variance on August 21, 2019. The commission's action is final. There was no appeal of the commission's decision, and the action by the commission remains the valid and binding final action with respect to the approved variances to SUBFY2017-1.

By way of the Garden City Ordinances, the City Council lacks the authority and subject matter jurisdiction to act in any fashion with respect to the variance granted to the Developer. The actions taken by the Garden City Council are voidable, and void.

Moreover, the City (by way of Design Review and the personal knowledge of the Development Director) has been on notice as to the location and height of the retaining wall structure since inception of the project, through design review, and through initial construction of the wall in July of 2018. No action was taken by the Development Director since May of 2018 after having been placed on notice of the retaining wall design and construction. It should also be noted that there is no requirement for the developer to submit engineering drawings or design for the retaining wall as part of its required submittals to the City.

It has been noted by comments during the course of events that the process was not followed or failed in some fashion. We respectfully submit that the express process for this situation is the variance process, which the Commission approved. Any other process that might have been available to the City, was waived by the City by reason of the multiple constructive and actual notice events directly involving the Development Director.

The decision from which Developer requests reconsideration, also fails to identify what steps the Developer may take to obtain approval. In stating this portion of the reconsideration, Developer does not waive its position that the approval of the variance by the Commission is final, and binding, and no further action by the City Council is required nor allowed.

Further, the final decision rendered by the City failed to provide or be accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to section Idaho Code 67-8003.

Developer respectfully requests that the City Council reconsider and void its actions taken on or about September 9, 2019 and September 23, 2019.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Kim J. Trout', written in a cursive style.

Kim J. Trout

CC: Client

## ARTICLE B. SPECIFIC PROVISIONS

### SECTION:

- 8-6B-1:** Purpose
- 8-6B-2:** Conditional Use
- 8-6B-3:** Design Review Committee
- 8-6B-4:** Development Agreement
- 8-6B-5:** Development Code Amendment
- 8-6B-6:** Specific Area Plan
- 8-6B-7:** Planned Unit Development
- 8-6B-8:** Minor Planned Unit Development
- 8-6B-9:** Variance
- 8-6B-10:** Zoning Map Amendment And Annexation

### **8-6B-1 PURPOSE:**

The purpose of this article is to set forth the requirements for certain types of application reviews that are distinct for the specific application, including review procedures, standards for review and findings for approval. The provisions included in this article are in addition to those set forth in article A, "General Provisions", of this chapter. (Ord. 898-08, 9-8-2008)

### **8-6B-2 CONDITIONAL USE:**

- A. Purpose: The purpose of this section is to establish procedures that allow for a particular use on a particular property subject to specific terms and conditions of approval.
- B. Applicability: The provisions of this section apply to all conditional uses identified throughout this title.
- C. General Provisions:
  - 1. Commission Approval Required: Conditional uses, as have been designated throughout this title, shall be allowed only upon the approval of an application by the commission, subject to the requirements of this chapter and such conditions as the commission may attach. Such approval shall be in the form of a written permit.
  - 2. Precedent Not Created: A conditional use permit shall not be considered as establishing a binding precedent to grant other conditional use permits.
  - 3. Transferability: Conditional use permits shall not be transferable from one parcel of land to another. Unless otherwise stated in the conditions attached to a permit, the permit shall be granted to the applicant and successors in interest to the premises for which it was approved.
  - 4. Conditions Of Approval: Upon the granting of a conditional use permit, the commission may attach conditions to said permit including, but not limited to, those:
    - a. Minimizing adverse impact on other development;

- b. Controlling the sequence and timing of development;
- c. Controlling the duration of development;
- d. Assuring that development is maintained properly;
- e. Designating the exact location and nature of development;
- f. Requiring provision for on site or off site public facilities or services;
- g. Requiring more restrictive standards than those generally required in an applicable ordinance;
- h. Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision providing services within the planning jurisdiction.

#### 5. Terms Of Permits:

- a. At the discretion of the commission, a conditional use permit may contain an expiration date. If no extension is requested pursuant to this section, the original permit shall expire at the end of its stated term.
- b. A conditional use permit is deemed void if the use has ceased for a continuous period of one year or more.

#### 6. Revocation:

- a. The commission shall have the authority to review any conditional use permit based upon a written complaint; a change in any applicable city ordinances; or the conditions attached to the permit by the commission.
- b. If the commission finds that there is a probable cause for revoking a conditional use permit, the commission shall give notice of a hearing to the applicant and the public in the same manner as a notice of a hearing for an application for a conditional use permit. The commission shall hold a hearing on the question of revoking the permit and, if it finds that grounds for revocation exist, it may revoke the permit.
- c. The commission may revoke a conditional use permit for any of the following grounds:
  - (1) Violation of this code;
  - (2) Violation of the conditions of the permit after written notice of the violations and a ten (10) day period to correct said violations; or
  - (3) Causing or allowing a nuisance, as determined in title [4](#), chapter [3](#) of this code, in connection with the use for which the permit was granted.

#### D. Required Findings: In order to grant a conditional use permit, the commission shall make the following findings:

- 1. The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district;
- 2. The use will be supported by adequate public facilities or services to the surrounding area, or conditions can be established to mitigate adverse impacts;

3. The use will not unreasonably diminish either the health, safety or welfare of the community; and
4. The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city. (Ord. 898-08, 9-8-2008)

### **8-6B-3 DESIGN REVIEW COMMITTEE:**

A. Purpose: The purpose of this section is to establish the specific process and findings for approval of design review applications.

B. Applicability: This process shall apply to all nonresidential development and dwelling units where there are more than two (2) proposed units attached or detached that are adjacent to one another on separate properties or more than two (2) units or structures on a single site. The provisions apply to the various forms of development including: new construction, major and minor alterations, large-scale construction, and development in specific locations as set forth in chapter 4, article C of this title.

C. Procedures:

1. Objectives: The objectives of the design review process are to involve the city in the earliest possible time in the development and design of a project and to work with the applicant in an iterative process of review and design. The review process is intended to be flexible and tailored to the needs of the project and the applicant.

2. Preapplication Conference Required: A preapplication conference with the design committee is required. Applicants are encouraged to schedule a preapplication meeting at the earliest point possible in the design of the project.

3. Purpose Of The Preapplication Conference: The purpose of the preapplication conference is threefold: to provide direction, determine the level of review process and what application materials will be required. The committee will provide direction on the design objectives set forth in chapter 4, article C of this title that are most relevant to the application. The committee will make a determination if the application should be filed as an administrative or design committee level review. Based on the scope of the project and the project location, the committee will decide what information, plans and designs will be required for review of the application and when the materials shall be submitted. The direction provided by the committee at the preapplication meeting may be changed or reversed at any time during the process if the design or the scope of the projects changes. The design review committee may determine the application is ready for approval at the preapplication conference.

4. Application Submittal: Based on the direction at the preapplication conference, the application for design review will be made for either an administrative or design committee review. No application will be approved until the application materials required have been provided and fees have been paid.

5. Once the application has been formally accepted, the public notice of intent to approve should be sent out ten (10) days prior to the approval date to allow for public input and appeal period.

6. Administrative Review: Applications for administrative review will follow the process set forth in section [8-6A-6](#), "Administrative Process Without Notice", of this chapter.

7. Design Committee Review: Applications for design committee review will follow the process set forth in section [8-6A-5](#), "Administrative Process With Notice", of this chapter. Applications for design committee review shall be scheduled for a committee meeting(s). The committee will meet with the applicant and review the submitted design until such time the committee believes the application complies with the required findings set forth in subsection D of this section. Based on the required

findings, the committee shall take one (1) of several actions: (a) approve the application; (b) conditionally approve the application with the requirement that the committee review further design details; or (c) deny the application.

D. Required Findings: In order to approve a design review application and based on the standards set forth in chapter 4, article C of this title, the design review committee shall make the following findings:

1. The proposed design is in conformance with the purpose of the zoning district and all dimensional regulations of that district;
2. The proposed design adheres to standards for the protection of health, safety, and general welfare;
3. The proposed design creates a sense of place and contributes to the uniqueness of the different districts and neighborhoods within the city;
4. The proposed design improves the accessibility of development to nonmotorized and public modes of transportation;
5. The proposed design supports a development pattern in nodes rather than strip commercial along arterial corridors;
6. The proposed design supports a compact development pattern that enables intensification of development and changes over time; and
7. The proposed design provides outdoor spaces and landscaping compatible with the southwest Idaho climatic conditions and that encourage pedestrian activity. (Ord. 898-08, 9-8-2008; amd. Ord. 905-09, 3-23-2009; Ord. 944-12, 5-14-2012; Ord. 975-15, 4-27-2015)

#### **8-6B-4 DEVELOPMENT AGREEMENT:**

A. Purpose: The purpose of this section is to establish a procedure for accommodating specific land uses in the city while continuing to provide for the protection of the public health, safety and welfare in accordance with Idaho Code section [67-6511A](#).

B. Applicability: A development agreement may be used in the annexation; specific area plan; or base or overlay rezoning process in any zoning district, regardless of lot size, subject to the standards provided for in this section.

C. General Provisions:

1. Subsequent Actions: A development agreement shall not prevent the city in subsequent actions applicable to the property, from applying new standards, regulations or policies that do not conflict with the written commitments within the development agreement.
2. Compliance With Codes: Nothing in this section shall be construed as relieving the property which is subject to development agreement restrictions from further compliance with all other permit and code requirements of the city.
3. Obligation Of The City: By permitting or requiring commitments pursuant to this section, the city does not obligate itself to approve a proposed zone change or annexation that is requested concurrent with a proposed development agreement.
4. Encumbrance: The owner, lessee, or owners of a valid interest in the property and all subsequent property owners of the property encumbered by the development agreement shall comply with all

conditions, terms, obligations and duties contained in the development agreement. Failure to comply shall result in termination of the agreement specified in subsection D8 of this section.

D. Procedures:

1. Request For A Development Agreement: At any time during the processing of an annexation, specific area plan, or a rezone application, a request to enter into a development agreement for the subject property may be submitted by the applicant, or may be recommended by the commission at the commission's public hearing, or may be required by the council at the council's public hearing.

a. In the event an applicant seeks to enter into a development agreement, the development agreement shall be taken to the commission at the time of the scheduled rezone, specific area plan, or annexation hearing. The commission shall forward its recommendation to the council regarding the applicant's requests.

b. In the event of a recommendation by the commission that a development agreement should be required, the rezone or annexation request shall be forwarded to the council with that recommendation.

2. Actions Of The Council: The council after receiving a recommendation from the commission may: a) approve, b) reject or c) modify the recommendations and include as a condition of annexation, specific area plan, or rezoning the property that the city enter into a development agreement with the applicant.

3. Form: The form of the agreement shall be established by the Garden City attorney.

4. Recording: The development agreement shall be attached to the ordinance establishing the zoning map amendment. The agreement shall take effect and shall be recorded in the office of the Ada County recorder within ten (10) days of adoption of the ordinance establishing the zoning map amendment by the council.

5. Modification: A development agreement shall only be modified after public hearing by the council. Major modifications as determined by the planning official shall require a hearing and recommendation by the commission prior to hearing by the council.

6. Revocation: In the event the city believes that grounds exist for revocation of the development agreement, the applicant or their successors and assignees shall be given written notice, by certified mail, of the apparent violation or noncompliance, providing a statement of the nature and general facts of the violation or noncompliance and providing the property owner fifteen (15) calendar days to furnish evidence:

a. That corrective action has remedied the violation or noncompliance;

b. That rebuts the alleged violation or noncompliance; and/or

c. That a request to amend the development agreement has been submitted.

7. Revocation Hearing: In the event that the applicant or their successors and assignees fails to provide evidence reasonably satisfactory to the city as provided in subsection D6 of this section, the planning official shall refer the apparent violation or noncompliance to the council for a public hearing as set forth in section [8-6A-7](#) of this chapter.

a. The council shall provide the applicant or their successors and assignees notice and reasonable opportunity to be heard concerning the matter; and a public hearing shall be conducted.

b. The council shall issue a written decision terminating the development agreement or remanding it back to the commission for the amendment process pursuant to the public hearing process as set forth in section [8-6A-7](#) of this chapter.

8. Termination Of Agreements: In the event that a development agreement is terminated or amended by the council, after public hearing, for failure to comply with any of the commitments expressed in the agreement, the city shall take the following actions:

a. The property shall be rezoned to its prior zoning designation. In the case of an initial zoning designation established at the time of annexation, termination of the agreement shall result in a city zoning designation deemed appropriate by the council and set forth in the terms of the development agreement.

b. All uses that are not compatible with the subsequent zoning designation following termination of the development agreement shall cease. The owner of the property shall apply for a conditional use permit for the property, if the use(s) is conditionally allowed within the subsequent zoning district.

9. Enforcement: Development agreements may be enforced by the city through any means deemed to be appropriate, including, but not limited to, specific enforcement, injunctive relief, monetary damages, criminal penalties and/or termination of the development agreement. Such enforcement options shall not be considered exclusive, but may be combined as deemed appropriate by the city.

10. Binding On Successors: Unless modified or terminated, a commitment is binding on the owner of the parcel, each subsequent owner, and each other person acquiring interest in the property.

11. Official Zoning Map: Upon approval of the rezone, the official zoning map of Garden City shall be amended showing the affected property zoned as development agreement (DA).

E. Standards: The standards identified in this subsection shall apply to all annexations, specific area plan, and rezones involving development agreements, unless otherwise specified.

1. Comprehensive Plan Compliance: Compliance with the goals and policies of the city's comprehensive plan shall be demonstrated in a written narrative.

2. Neighborhood:

a. There shall be compatible transition in scale, building form, and proportion between the proposed structure/use and existing structures and landscape.

b. The proposed use(s) and development of the subject property shall be appropriate for the location, the lot and the neighborhood.

c. The proposed use(s) and development shall not adversely affect the character, public health, safety, and/or general welfare of the neighborhood or the community.

3. Infrastructure:

- a. The proposed use and development of the subject property shall not cause undue traffic congestion, or dangerous traffic conditions.
- b. The proposed use(s) and development of the subject property shall not adversely impact other infrastructure such as, but not limited to, public utilities and communication systems, water, wastewater, and drainage systems. (Ord. 898-08, 9-8-2008)

#### **8-6B-5 DEVELOPMENT CODE AMENDMENT:**

- A. Purpose: The purpose of this section is to establish procedures for amendments to the text, tables and graphics of this title, including supplements, changes, modifications or repeals.
- B. Applicability: The provisions of this section shall apply to all text within this title.
- C. Procedures:
  - 1. Development Code Amendment Initiated By The City: Any member of the council, design review committee, or the commission may propose to amend this title following notice and public hearing procedures set forth in article A, "General Provisions", of this chapter.
  - 2. Development Code Amendment Not Initiated By The City: The prospective applicant for a development code amendment shall complete a preapplication conference with the planning official. The planning official shall make a recommendation to the commission on the merits of considering the applicant's request. The commission shall review the request at a public hearing and then determine if an application should be brought forward to amend the development code. Upon approval of the request by the commission, an application, fees, and public notice in accord with article A, "General Provisions", of this chapter, shall be provided.
  - 3. Public Hearings: The commission and council shall hold public hearings on the development code amendments as set forth in article A, "General Provisions", of this chapter.
  - 4. Effective Date: The amendment shall become effective by a favorable vote of a majority of the members of the council.
- D. Required Findings: In order to grant a text amendment to the development code, the council shall make the following findings:
  - 1. The text amendment complies with the applicable provisions of the comprehensive plan;
  - 2. The text amendment shall not be materially detrimental to the public health, safety, and welfare; and
  - 3. The text amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city. (Ord. 898-08, 9-8-2008; amd. Ord. 975-15, 4-27-2015)

#### **8-6B-6 SPECIFIC AREA PLAN:**

- A. Purpose: It is the intent of this section to describe the process for review and action on a specific area plan (SAP). This process will establish a workable framework for the development of large or phased projects. The goal of this section is to ensure the orderly planning and development of land, by requiring new development to:
  - 1. Implement the goals and objectives of the city's comprehensive plan, as amended, including the future land use map, the land use designations and the land use goals and policies, if applicable;

2. Contribute to the social, economic and environmental sustainability of the city;
  3. Develop in a manner that is highly respectful of the natural setting, that is at a human scale and ensures neighborhood compatibility;
  4. Provide for an integrated transportation system which prioritizes a pedestrian environment and mass transit and reduces vehicular trips;
  5. Result in a contribution of amenities to the community including maintaining public access to the Boise River and recreational facilities;
  6. Designate and protect open site area in perpetuity;
  7. Provide for a mix of uses, including housing types;
  8. If necessary, plan for the coordinated and phased construction of infrastructure, including public facilities and transportation system components; and
  9. Remain consistent with the intent of this title.
- B. Applicability: The specific area plan process may be utilized in all zones within the city and shall be required prior to the development or redevelopment of properties larger than ten (10) acres within the city; for specific sites as defined in the comprehensive plan and for areas requesting annexation.
- C. General Provisions:
1. The city may require that properties, whether contiguous or not, be processed under a single comprehensive SAP application.
  2. Approval of an SAP will constitute approval of a master plan which establishes a framework to guide all future development within the area defined by the SAP.
  3. Development applications may be filed in conjunction with an SAP application, however, no construction shall commence on any component of an approved SAP except upon receipt of design review, conditional use, variance, or subdivision approval.
  4. All development of the SAP site shall be regulated by applicable provisions of this title and other code provisions in effect at the time the development application is submitted and certified as complete by the city. Development applications include, but are not limited to, design review, conditional use, variance, subdivision, planned unit development.
- D. Procedures:
1. Preapplication Conference: A preapplication conference shall be held with the planning official and, as appropriate, other city staff in order for the applicant to become acquainted with the SAP procedures and any related city requirements and schedules. The applicant shall be the owner(s) of the property. The owner may designate a representative to work with the staff and the city. The staff will give preliminary feedback to the applicant based on information available at the preapplication conference and will inform the applicant of issues or special requirements which may result from the proposal.
  2. Preapplication Meeting: After the preapplication conference, a preapplication meeting shall be held with the commission.

3. Application: The SAP application shall be submitted in accordance with article A, "General Provisions", of this chapter.

4. Public Hearings: The commission and council shall hold public hearings on the SAP as set forth in article A, "General Provisions", of this chapter.

5. Commission Review And Action: The commission shall recommend approval or denial of an SAP. Such action shall be in the form of written findings of fact, conclusions of law and in the case of approval, conditions of approval. Action shall occur only after the required public hearing is held.

6. Council Review And Approval: As a condition to approval of an SAP, the council may enter into a development agreement as provided for in section [8-6B-4](#) of this article.

7. Major And Minor Amendments: An approved SAP may be amended at any time using the process, and may be amended simultaneously with the processing of a development application. The planning official shall decide whether a proposed amendment is a "major" or "minor" amendment. In order to initiate an amendment, the applicant shall submit to the planning official an application on those items that would change if the proposed amendment were approved.

a. Major Amendments: Changes of the following types shall define an amendment as major:

(1) Changes which would modify or reallocate the allowable building height, mix of uses, or density of a development; or

(2) Changes which would alter the location or amount of land dedicated to open space, amenities, trails, natural areas or public facilities; or

(3) Modify any other aspect of the SAP that would significantly change its character; or

(4) A series of minor amendments that cumulatively change the overall character of the SAP.

b. Minor Amendments: Amendments that are not major amendments shall be termed "minor amendments" and shall be reviewed by the planning official. The planning official shall approve, approve with conditions, or deny said amendments.

8. Recording Of An Approved SAP:

a. All approved SAPs, and all approved amendments to such SAPs, specifying the land within its boundaries, shall be recorded in the Ada County recorder's office with a notation that all land within such boundaries shall be subject to the provisions of such SAP.

b. All recorded SAPs and SAP amendments shall be binding upon the applicants and their successors and assigns, and shall guide the location of improvements and infrastructure of site specific applications. It is expressly understood that site specific applications shall be regulated by the zoning, subdivision and other code provisions in effect at the time any application for development, design review, conditional use, variance, or subdivision is submitted and certified as complete by the city.

9. Development Agreement: At the request of the applicant, a development agreement may be submitted to establish and set by mutual contract the zoning, open space dedications and/or SAP densities of an approved SAP. The specific area plan agreement shall be consistent with the comprehensive plan, the SAP approval and conditions, if any, and in a form approved by the city

attorney. A development agreement may be applied for concurrently with an SAP application or at any time subsequent to the approval of an SAP application.

E. Required Findings: The commission shall make the following findings in order to recommend approval of an SAP. In some cases, conditions of approval will be attached to the approval to ensure compliance with these findings. The commission, if denying an SAP application, shall state findings why such application does not comply with one or more of the following findings:

1. The SAP, as conditioned, is consistent with the city comprehensive plan, as amended, including the future land use map and the land use planning area guidelines and land use designations, if applicable;
2. The SAP, as conditioned, meets the minimum requirements of this chapter;
3. The SAP promotes the orderly planning and development of land, as set forth in the purpose for this process;
4. The SAP has been noticed and public hearing held in accordance with this code;
5. The SAP complies with all city zoning regulations and codes in effect at the time of the SAP application. (Ord. 898-08, 9-8-2008)

#### **8-6B-7 PLANNED UNIT DEVELOPMENT:**

A. Purpose: The intent of this section is to provide for well planned developments which conform to the objectives of this title, but may deviate in certain respects from the zoning map and the district regulations. It is not the intent that the planned unit development process be used solely for the purposes of deviation from the dimensional standards in the district unless the following objectives are also achieved:

1. Provide a maximum choice of living environments by allowing a variety of housing and building types, and permitting an increased density per acre and a reduction in lot dimensions, yards, building setbacks and area requirements;
2. Create a more useful pattern of open space and recreation areas; and, if permitted as part of the project, more convenience in the location of accessory commercial uses, industrial uses and services;
3. Establish a development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation and prevents the disruption of natural drainage patterns;
4. Use land more efficiently than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets; and
5. Develop a land pattern in harmony with land use density, transportation, and community facilities objectives of the comprehensive plan.

B. Applicability: The planned unit development process may be used in any district.

C. General Provisions:

1. Uses Permitted: All uses that are allowed within the land use district are permitted within a PUD. Also, up to ten percent (10%) of the gross land area may be applied to other uses that are not allowed within the land use district upon findings by the commission, as set forth in subsection E of this section.

## 2. Arrangement Of Uses:

- a. Open Space: Every property developed under the PUD approach should be designed to abut upon common open space or similar areas.
- b. Commercial: Commercial uses and buildings shall be planned as groups having common parking areas, and common ingress and egress points in order to reduce the number of potential accident locations at intersections.
- c. Industrial: Industrial uses shall provide for an efficient use of land and services by grouping buildings in parklike surroundings, utilizing landscaping and existing trees as buffers to screen lighting, parking areas, loading areas or docks and/or outdoor storage of raw materials or products.
- d. Residential:
  - (1) With ten (10) or more dwelling units, a variety of housing types shall be included including attached units (townhouses, duplexes), detached units (patio homes), single-family and multi-family units; provided, that the overall density limit of the district is maintained.
  - (2) A clustering of dwellings is encouraged.
  - (3) For townhouses, no more than eight (8) townhouse units shall be located in any contiguous group.

## 3. Minimum Size: Minimum size of a planned unit development shall be as follows:

- a. Fourteen thousand five hundred (14,500) square feet for residential development;
- b. One (1) acre for mixed use;
- c. One (1) acre for commercial use; and
- d. Five (5) acres for industrial use.

## 4. Setbacks: All applications which propose reduced or zero setbacks from what was set forth in section [8-2B-3](#), "Form Standards", of this title shall comply with the following development standards:

- a. Lots with a reduced or zero lot line shall provide drainage easements of sufficient size to maintain drainage on the site.
- b. The PUD plat shall indicate the reduced or zero setback lines and all easements shall be shown on the plat and incorporated into each deed transferring the title of the property.
- c. In no case shall a property with a reduced or zero lot line be allowed adjacent to a property that is not part of the PUD.
- d. The minimum separation between detached structures shall be ten feet (10') unless greater separation is required by fire or building codes.
- e. All development located on a parcel with a reduced or zero lot line shall comply with all applicable building and fire codes.

## 5. All areas designed for future expansion or not intended for immediate improvement or development shall be landscaped or otherwise maintained in a neat and orderly manner.

D. Procedures:

1. An application for a PUD may be filed by a property owner or a person having an existing interest in the property to be included in the PUD. The PUD application shall be filed in the name or names of the recorded owner or owners of property included in the development. However, the application may be filed by the holder(s) of an equitable interest in such property.

2. A planned unit development (PUD) shall be processed as a conditional use permit with the submission of a preliminary development plan and approval of a final development plan as set forth below. A planned unit development application shall take the place of a preliminary plat application in cases where utilized for subdivision purposes.

a. In addition to the application requirements set forth in section [8-6A-4](#), "Required Application Information", of this chapter, the application submittal for a preliminary development plan for a PUD should contain the following:

(1) Proposed schedule for the development of the site; and

(2) Evidence that the applicant has sufficient control over the land in question to initiate the proposed development plan within two (2) years.

b. The commission shall review the preliminary development plan to determine if it is consistent with the intent and purpose of this title; whether the proposed development advances the general welfare of the community and neighborhood and the surrounding area to justify the deviation from standard district regulations.

c. The commission's approval in principle of the preliminary development plan shall be necessary before an applicant may submit a final development plan. Approval in principle shall not be construed to endorse a precise location of uses, configuration of parcels or engineering feasibility.

d. Upon approval of a preliminary development plan, an application for a final development plan may be filed.

e. The commission shall recommend to the council approval or denial of a PUD. Such action shall be in the form of written findings of fact, conclusions of law and in the case of approval, conditions of approval. Action shall occur only after the required public hearing is held.

3. When a PUD also qualifies as a subdivision, the processing of the PUD permit and subdivision application shall occur at the same time.

4. Before approval is granted to the final development plan, the entire project shall be under single ownership or control and legal title must be presented with the final development plan.

E. Required Findings:

1. In order to grant approval of a planned unit development, the commission and council shall make the findings for a conditional use permit as set forth in section [8-6B-2](#) of this chapter and the following:

a. The applicant has demonstrated that the proposed development can be initiated within two (2) years of the date of approval;

- b. Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which would not be achieved under standard district regulations;
- c. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic and increased densities will not generate traffic in such amounts as to overload the street network outside the PUD;
- d. Any proposed commercial development can be justified at the locations proposed;
- e. Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan, in accordance with the PUD and the adopted policy of the council;
- f. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development;
- g. The PUD is in general conformance with the comprehensive plan; and
- h. The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.

2. In allowing for uses not otherwise permitted in the district, the commission shall make the additional findings:

- a. The uses are appropriate with the residential uses;
- b. The uses are intended to principally serve the residents of the PUD;
- c. The uses are planned as an integral part of the PUD;
- d. The uses be located and so designed as to provide direct access to a collector or an arterial street without creating congestion or traffic hazards; and
- e. A minimum of fifty percent (50%) of the residential development occurs prior to the development of the related commercial or industrial land uses. (Ord. 898-08, 9-8-2008; amd. Ord. 905-09, 3-23-2009; Ord. 975-15, 4-27-2015)

#### **8-6B-8 MINOR PLANNED UNIT DEVELOPMENT:**

A. Purpose: The purpose of the provisions for a minor planned unit development (PUD) is to allow for flexibility in the design and development on small residential lots of record that were platted prior to the adoption of the city's zoning ordinance. Specifically, these provisions are intended to:

- 1. Through more flexible standards, encourage innovation and creativity in residential lot development;
- 2. Through innovative site design, create usable open space areas, a sense of place and neighborhood;
- 3. Provide for a variety of housing products that respond to changing demographics and housing needs including cottages, compact housing, residential courts, co-housing, and attached units;

4. Encourage interconnectivity within blocks and between lots of record;
  5. Create an incentive for residential development that is designed with consideration for future development on adjoining lots and for combining lots of record;
  6. Establish provisions for quality and sustainable design; and
  7. Provide a tool and process that expedites the development review process on smaller lots of record.
- B. Applicability:
1. These provisions shall apply to any lot of record that is at least plus or minus one hundred feet (100') by plus or minus one hundred fifty feet (150') in size in the C-2, R-2, and R-3 zoning districts.
  2. The provisions of this article shall apply only when requested by an applicant and are in lieu of the underlying zoning district requirements.
- C. Allowed Uses:
1. Uses allowed in a minor PUD shall include all residential uses that adhere to the provisions for a minor PUD as set forth in this chapter.
  2. Uses allowed shall be: attached and detached single-family; townhouse, two-family duplex; or multiple-family dwelling units; cottages; co-housing development; or any combination of these housing uses. Work-live units in compliance with the provisions set forth in chapter 3, article C, "Surel Mitchell Work-Live-Create" overlay district, of this title and small scale commercial uses are also allowed in structures fronting on a public street.
- D. General Provisions For The Site Layout Template:
1. Site Layout Template: All minor planned unit developments (PUDs) shall be based on an approved site layout template, prepared by a licensed architect and reviewed as set forth in section [8-6B-3](#), "Design Review Committee", of this chapter and adopted through a public hearing process as set forth in section [8-6A-7](#) of this chapter.
  2. The site layout template shall provide for the following elements:
    - a. Location of proposed building footprints, common areas, private open space, paved areas, service areas, access lanes, parking, pedestrian walkways and linkages;
    - b. Calculation of the number of units, building stories, parking spaces and amount of common area; and
    - c. A plan that shows the opportunities for future connectivity with adjoining properties.
  3. The site layout template shall meet the following criteria:
    - a. Fire access and protection shall be in compliance with the International Fire Code.
    - b. The common area shall be a minimum of eight percent (8%) of the site with a minimum dimension of twenty feet (20').
    - c. The minimum width of the access lane shall be twenty feet (20').

d. Interconnectivity shall be designed to allow for shared access or shared common area with adjoining property. Shared access may be one (1) of the following:

- (1) An access lane that has the ability to be widened or extended;
- (2) Multiple pedestrian connections;
- (3) A common area that has the ability to be widened or extended.

e. The minimum dwelling unit size shall be five hundred fifty (550) square feet.

f. Minimum Setbacks:

- (1) Between condominiums and multi-family structures without a firewall separation shall be ten feet (10').
- (2) Between townhouse structures shall be six feet (6').
- (3) To property lines external to the original lot of record shall be five feet (5').
- (4) To an internal access lane shall be five feet (5').

g. Maximum Building Height: Maximum building height shall be thirty feet (30'), except where requirements of the International Fire Code can be satisfied, a maximum height of fifty-five feet (55') shall be allowed.

h. Required Parking:

Units under 700 square feet in size	1 parking space
Units 700 to 1,000 square feet in size	1.5 parking spaces
Units over 1,000 square feet in size	2.0 parking spaces
Commercial space	1 unit per 1,000 square feet

- (1) Parking spaces shall be a minimum of ten feet by twenty feet (10' x 20') in dimension.
- (2) Required parking spaces shall be provided in a garage or carport, with the exception that required parking may be satisfied through surface parking spaces when the spaces are well integrated into the site design and shielded from adjoining properties; or are provided in diagonal parking spaces wholly or partially on public property.

E. General Provisions For A Minor Planned Unit Development (Minor PUD):

1. The minor PUD for an individual property shall be in substantial conformance with an adopted site layout template. The site design may deviate from an adopted site layout template with fewer units, less density, less building footprint or greater open space. Relocation of building footprints, common areas, access lanes, parking, private open space may deviate up to ten percent (10%) from the adopted design layout template.

2. In addition to the requirements for the template identified in the general provisions for the site layout template, the minor PUD shall also include the following elements:

- a. A site plan showing the location of utility, meter boxes, fire hydrants, trash enclosures, street addresses, and site identity marker;
- b. A landscape and surface materials plan showing the location and type of plants and hard surface materials;
- c. Public street elevations of all buildings located adjacent to a public street;
- d. Property dimensions, dimensions of all buildings, access lanes and common areas; and
- e. A legal description.

3. The minor PUD for an individual property shall meet the following criteria:

- a. The requirements for the design layout template identified in the general provisions for the site layout template.
- b. Landscaping and irrigation shall be in compliance with the city's code.
- c. Street trees shall be located at thirty-five foot (35') centers in the parkway with a detached sidewalk; or within five feet (5') of the building side of an attached sidewalk; or within the sidewalk area in ten foot (10') tree cutout areas.
- d. Landscaping shall be provided around all building foundations.
- e. Common Area:
  - (1) Up to fifty percent (50%) of the common area requirement may be satisfied in private open space.
  - (2) Common areas may be constructed of turf; pavers; or colored, stamped or decorative concrete.
- f. Private Open Space: Any private open space shall be a minimum of eighty (80) square feet and may be a patio, lawn, porch, or deck.
- g. Building Orientation: The front doors and primary facades of all buildings shall be on either a public street or common area.
- h. Public Street Elevation: The buildings facing a public street shall have a minimum transparency of ten percent (10%), excluding uninhabitable space. Blank, unrelieved walls shall not be allowed facing the public streets.
- i. Site Identity Marker: A site identity marker shall be required and integrated into the design of the site at a prominent location.
- j. Access Lane:
  - (1) The access lane may be a private street, a public alley, or a public minor local street in compliance with code.
  - (2) The access lane may also be constructed as a private street at one-half (1/2) the dimensional requirements for a public street, if there exists the opportunity to fully develop and dedicate a public street with the adjacent property owner.

(3) The access lane shall be dedicated as a public street if the street is shown on the city's adopted neighborhood street plan.

(4) Shared access with adjoining property shall be a condition of approval; or a plat condition on the final subdivision or condominium plat. The condition may include but is not limited to a requirement for a cross access agreement, easement or dedication.

k. Service Areas: Service areas shall not be visible from the public street.

l. Utility Vaults: Utility vaults shall be integrated into the overall site design and landscaping plan.

m. Storm Drainage: Storm drainage shall be in compliance with the city's adopted design and construction guide.

F. Procedures:

1. Applications for a site layout template shall follow the provisions for a public hearing as set forth in section [8-6A-7](#) of this chapter.

2. Applications for a minor PUD shall follow the provisions for an administrative decision with notice as set forth in section [8-6A-5](#) of this chapter.

3. Applications for a minor PUD in combination with a site layout template, subdivision, or any other application may be processed concurrently. The minor PUD application shall follow the review procedures for a public hearing, if required by the other application.

G. Required Findings:

1. The planning and zoning commission shall base their determination to adopt a site layout template based on the recommendation of the design committee and the following findings:

a. Recommendation from the design review committee;

b. The layout is in conformity with the purpose and intent of this article and the city's comprehensive plan;

c. The layout demonstrates innovation and creativity in residential lot development;

d. The layout creates usable open space areas and the opportunity to create a sense of place and neighborhood on a site;

e. The layout could provide for a variety of housing products that respond to changing demographics and housing needs including cottages, compact housing, residential courts, co-housing, and attached units;

f. The layout provides for interconnectivity within blocks and between lots of record; and

g. The layout creates an incentive for residential development that is designed with consideration for future development on adjoining lots and for combining lots of record.

2. The planning official or the planning and zoning commission shall base their determination to approve a minor PUD on the following findings:

a. The minor PUD is in general conformance with an adopted site layout template and any deviations are minor as defined in this section;

b. The minor PUD meets all the findings for a site layout template as set forth in this subsection G;

c. The minor PUD complies with requirements of the city and other agencies with jurisdiction; and

d. The minor PUD has been designed to minimize impacts on adjacent properties.

3. In approving a minor PUD, the decision maker may prescribe appropriate conditions and limitations in conformity with this title which:

a. Minimize adverse impacts on adjacent properties; and

b. Provide a guarantee for interconnectivity between the site and adjacent properties. (Ord. 898-08, 9-8-2008; amd. Ord. 904-08, 11-24-2008; Ord. 905-09, 3-23-2009; Ord. 944-12, 5-14-2012; Ord. 975-15, 4-27-2015)

#### **8-6B-9 VARIANCE:**

A. Purpose: The purpose of this section is to establish procedures for modification from the bulk and placement requirements of this title.

B. Applicability:

1. The provisions of this section shall apply to requests to vary from the requirements of this title with respect to lot size, coverage, width, and depth; front, side, and rear setbacks; parking spaces; building height; and all other provisions of this title affecting the size and shape of a structure or the placement upon properties.

2. A variance does not relieve an applicant from any of the procedural provisions of this title, nor does it allow establishment of a use that is not otherwise permitted in the applicable zoning district.

C. Process: A variance shall be allowed only upon the approval of an application by the commission, subject to the requirements of this chapter, a showing of undue hardship because of unique physical characteristics of the site, and that the variance is not in conflict with the public interest.

D. General Provisions:

1. Conditions Of Approval: Upon the granting of a variance, the commission may impose any conditions it considers necessary to assure:

a. That the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the applicable zoning district in which the subject property is located; and

b. Secure substantially the purpose of city regulations and give effect to the comprehensive plan.

2. Conforming Variance: Any structure, building, fence, sign or use built, erected, reconstructed, used, maintained, established, existing or occupied under an approved variance as herein provided shall be deemed in conformity with the provisions of this title to the extent it complies with the provisions of said variance.

3. Precedent Not Created: Approval of a variance shall not be considered as establishing a binding precedent to grant other variance requests.

E. Required Findings: A variance shall be granted by the commission only if the applicant demonstrates all of the following:

1. The subject property is deprived, by provision of this title, of rights and privileges enjoyed legally by other properties in the vicinity and under the applicable zoning district because of the unique size, shape, topography or location of the subject property (a finding of undue hardship);
2. The need for the variance is not the result of actions of the applicant or property owner;
3. The variance will not unreasonably diminish either the health, safety or welfare of the community neighborhood;
4. The variance is the only reasonable alternative to overcome the undue hardship; and
5. The variance is the minimum relief necessary to allow reasonable use of the subject property. (Ord. 898-08, 9-8-2008)

**8-6B-10 ZONING MAP AMENDMENT AND ANNEXATION:**

A. Purpose: The purpose of this section is to establish procedures for amendments to the official zoning map and annexations of land.

B. Applicability: The provisions of this section shall apply to all lands within the city limits, the area of city impact, and all other annexable land as set forth in Idaho Code section [50-222](#).

C. Initiation Of Map Amendment And Annexation: The process for official zoning map amendment or the annexation of land can be initiated by the council or an applicant.

D. Procedures:

1. Official Zoning Map Amendment And/Or Annexation Initiated By Council: The council shall follow the procedures for amendment to the zoning maps as set forth in Idaho Code section [67-6511](#) and for annexation of land as set forth in Idaho Code section [50-222](#).

2. Official Zoning Map Amendment And/Or Annexation Initiated By An Applicant: The applicant shall complete a preapplication conference with the planning official prior to submittal of an application for zoning map amendment and/or annexation of land. An application, fees, and public notice in accord with article A, "General Provisions", of this chapter, shall be provided. The procedures of Idaho Code sections [67-6511](#) and [50-222](#), as applicable, shall be followed.

3. Public Hearings: The commission and council shall hold a public hearing on the zoning map amendment and/or annexation of land as set forth in article A, "General Provisions", of this chapter.

E. General Provisions:

1. The subject property shall meet the minimum dimensional standards of the proposed district.

2. The city may require a development agreement in conjunction with the annexation or rezone pursuant to Idaho Code section [65-6711A](#) and section [8-6B-4](#), "Development Agreement", of this article.

F. Required Findings:

1. The zoning map amendment complies with the applicable provisions of the comprehensive plan;

2. The zoning map amendment complies with the regulations outlined for the proposed district, specifically the purpose statement;
3. 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;
4. 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; and
5. 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](#). (Ord. 898-08, 9-8-2008)

[Mobile Version](#)

October 7, 2019

**RECEIVED**  
 CITY CLERK'S OFFICE

**OCT 07 2019**
**SENT VIA: E-Mail**

 City of Garden City  
 c/o Charles Wadam  
 6015 Glenwood Street  
 Garden City, ID 83714  
 cwadams@gardencityidaho.org

 EMAILED: N/A  
 TIME: 2:31 p.m. *JMP*  
*City Treasurer/Clerk*

Re: Bridge Town Homes - SUBFY2017-1- Supplemental Request for Reconsideration

Dear Mayor Evans and Members of Garden City, City Council, City Clerk, and City Attorney:

On behalf of Surfer's Paradise, LLC, Owner and Developer of the Bridge Townhomes Subdivision ("Developer"), the following is Developer's supplemental request for reconsideration of the Garden City's action, reflected by the action of the City Council regarding SUBFY2017-1 dated September 23, 2019.

As additional support and for the City Council's consideration, one of the assertions by the City, through Jenah Thornborrow, is that the retaining wall height could not exceed three and one-half feet (3.5'). This assertion was made pursuant to City Code 8-4A-3, which states:

Maximum Height Requirements	<ol style="list-style-type: none"> <li>1. Fences and walls located along a street frontage within the front yard setback: Three and one-half feet (3.5').</li> <li>2. Fences and walls located within rear and interior side setbacks: Six feet (6').</li> <li>3. Fences and walls on residential property with rear and interior side yards located adjacent to commercial uses: Eight feet (8').</li> <li>4. Fences and walls on corner properties: Six feet (6') with a minimum setback of ten feet (10') from the front property line.</li> <li>5. The height of fences and walls shall be measured from the existing grade.</li> </ol>
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Ms. Thornborrow's assertion is incorrect for a number of reasons. First, the 3.5' requirement is only if the fence or wall is located "along a street frontage." Garden City Code 8-7A-2 defines "Street, Frontage" to be "[a] minor street, parallel to and adjacent to an arterial street to provide access to abutting properties." "Street, Minor" is defined as "[a] street which has the

primary purpose of providing access to abutting properties. A “Street, Arterial” is defined as “[a] street designated on the comprehensive plan for the purpose of carrying fast and/or high volume traffic.” Finally, all of these are wrapped under the general definition of being “[a] public or private right-of-way **which provides vehicle** and pedestrian access to adjacent properties.” (emphasis added)

As we know, the retaining wall is not “located along a street frontage” as that term is defined in the Garden City Code. Likewise, the 3.5’ requirement also only applies if the fence or walls is “located...within the front yard setback.” Garden City Code defines a “Yard” to be “[a] required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from three feet (3’) above the general ground level of the graded lot upward.” A “Yard, Front” is defined as “[a] yard extending between side lot lines across the front of a lot and from the front lot line to the front of the principal building.”

It is undisputable that the Greenbelt **is not** a “street” under **any** definition contained in the Garden City Code. Likewise, it is undisputable that the front of the lot is the portion of the lot line that borders North Prospect Lane. Therefore the 3.5’ requirement does not apply, as stated by Ms. Thornborrow during the open council meeting.<sup>1</sup>

As it relates to the measurement of the height of the retaining wall, Garden City Code requires it to be “measured from the existing grade.” Grade is defined as “[t]he elevation of the finished surface of the ground adjacent to the exterior wall of a building or structure. If a berm has been created adjacent to the structure, or if the structure is built on top of a berm, grade will be considered the lowest point of the berm.” In order to interpret this definition, one must know that “Structure” is defined as “[a]nything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground. The term ‘structure’ includes buildings, storage tanks, manufactured and mobile homes, walls and fences.” The greenbelt, under this definition, is clearly not a structure. In fact, it is precluded from being a structure because it is defined elsewhere as the “[l]and within seventy feet (70’) of the six thousand five hundred (6,500) cfs flow line of the Boise River...”. Therefore, to measure the height of the wall, one must look at the “finished surface of the ground adjacent to the exterior wall...” The ground adjacent to the exterior wall of the closest “building or structure” is the Brownstone Townhouses. The top of the wall from the “ground adjacent to the exterior wall” of the Brownstone Townhouses is not 8 feet tall.<sup>2</sup>

Furthermore, and as importantly, Ms. Nancy Baskin submitted a document titled “Bridge Townhomes Objections to ‘Modifications.’” In this document, Ms. Baskin asserts that there are “unambiguous directives [sic] for construction of wall. (12 – 3 feet setbacks from GB for retaining wall 3.5’ high and no structure closer than 3’ to GB.” Ms. Baskin couldn’t be more incorrect on

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<sup>1</sup> Developer submits this information only in response to Ms. Thornborrow’s statements on the record asserting that there is a 3.5’ fencing requirement as a result of the Garden City Code.

<sup>2</sup> Again, Developer submits this information recognizing that the City Council did not object to the height of the wall, however it appears that City Staff and private citizens did.

this. Under the Site Specific Requirements, Note 12, which is what Ms. Baskins relies on, she adds the height requirement. Note 12 states: “Three feet (3’) setbacks from the greenbelt are allowed to facilitate retaining wall. No structure shall be closer than 3’ to greenbelt.” This is again stated in Notes 23 and 28. Again, there is no height limitation, and even if there was the height requirement as incorrectly stated by Ms. Baskin, it would have been measured from the ground adjacent to the Brownstone Townhouses, per the Garden City Code.

After having reviewed the Garden City Code, I have been unable to find any fencing requirements or limitations outside of those cited above. It is likewise important to note that the Council and the City Staff need to consider the Garden City Code applicable should be, and remains, the version in place at the time the PUD for this development was approved in May of 2017. No *ex post facto* application of later adopted ordinances would be, nor are they, allowed.

Finally, all the required findings for the PUD, as required under Garden City Code 8-6B-7(E)(1) & (2) were made, in the original approval in May of 2017. None of the conditions identified in the original required findings for Section 1, nor Section 2, had changed from the initiation of construction following approval in May of 2017. Likewise, the required findings for the “use” in the PUD has not changed since original approval under Garden City Code 8-6B-2(D).

In Ms. Baskin’s document, she is correct about one thing. What the Developer was required to do, was request a variance. Instead, the City Staff created a non-existent process which was not, and is not, provided for in the Garden City Code. The Developer submitted their request and it was approved by the Planning and Zoning Commission. Once the initial PUD was approved by the City Council, it relinquished further requests for deviances from the approved conditions to the commission. The commission heard the Developer’s request, approved it, and recommended the Council approve it (although such approval was not, and is not necessary nor required). The commission made the required findings under the Variance code of Garden City. The Council overstepped its authority, and the City Staff overstepped its authority when it required the Developer to go through a process not required under the Garden City Code.

It remains Developer’s position that the process was technically followed, even though City Staff gave it a different name and required Developer to jump through more hoops than required under Garden City Code. However, and reserving all the Developer’s rights, including that of a judicial review provided for under Idaho Code, the Developer would like to resolve this matter with the City. It is hard to dispute that the Developer has added to the City’s tax base, business base, residential values, and aesthetics. The Developer has likewise invested in this property for his own personal residence and has moved his business from the City of Boise to the City of Garden City. The Developer is open to meet with the City and an independent third party in a mediation to attempt to resolve this dispute in a mutually satisfactory manner.

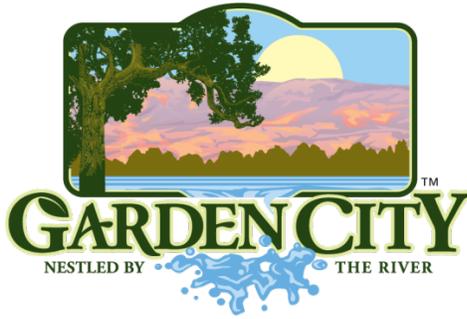
Developer respectfully requests that the City Council reconsider and void its actions taken on or about September 9, 2019 and September 23, 2019.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Kim J. Trout', written in a cursive style.

Kim J. Trout

CC: Client



## OFFICE OF THE CITY ATTORNEY

6015 Glenwood Street ■ Garden City, Idaho 83714  
Phone 208/472-2900 ■ Fax 208/472-2996

**TO:** Mayor and Council

**FROM:** Charles I. Wadams, City Attorney

**DATE:** 10/09/2019

**SUBJECT:** Request for Reconsideration of Bridge Townhomes SUBFY2017-1

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**BACKGROUND:** At the September 23, 2019 Council Meeting, the City Council approved written Findings of Fact, Conclusions of Law and Decision regarding what was understood to be an application for the modification of certain site specific conditions of approval for the Bridge Townhomes Planned Unit Development Final Plat (PUDFY2017-1). In the Findings of Fact, Conclusions of Law and Decision, the City Council denied the modification request for SUBFY2017-1/PUDFY2013-2. On October 4, 2019, the applicant's attorney, Kim J. Trout, submitted a Request for Reconsideration with the City. On October 7, 2019, Mr. Trout submitted a Supplemental Request for Reconsideration. The procedural issue to be decided at the October 14, 2019 Council Meeting is whether to consider the substantive issues, raised in the Requests for Reconsideration, at a subsequent Council Meeting. I am now providing a brief legal analysis to the City Council to assist in the review of the Requests for Reconsideration.

**ANALYSIS:** The Local Land Use Planning Act (LLUPA) states:

[a]ny applicant or affected person seeking judicial review ... **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.

I.C. 67-6535(2)(b) (emphasis added).

Currently, there is no case law interpreting I.C. § 67-6535(2)(b). Therefore, the analysis is of the plain wording of the statute. The statute states an applicant or affected person seeking judicial review “must” seek reconsideration. It does not state that the City Council must grant reconsideration. If a written decision is not provided on the request for reconsideration, “the request is deemed denied.”

Idaho Code § 67-6535(2)(b) requires an applicant to go back to the City Council and specifically state what the alleged deficiencies are in the decision to potentially give the Council an opportunity to correct any errors. The amendment does not require the Council to make a decision on the request. Based on the plain wording of the statute, it is within the Council’s discretion on whether to consider the merits of a request for reconsideration on an application that is within the scope of LLUPA.

However, I.C. § 67-6535(2) (which also creates the requirement of a reasoned statement) applies only to an “application required or authorized pursuant to this chapter.” *Id.* The following are subject to LLUPA review: (1) initial zoning following annexation; (2) rezoning of specific parcels or sites pursuant to Idaho Code § 67-6511; (3) conditional rezoning pursuant to Idaho Code § 67-6511A; (4) application for subdivision; (5) application for variance; (6) application for conditional use permit; and (7) “other similar applications” which presumably includes planned unit developments.

Therefore, the current planned unit development is likely subject to judicial review under LLUPA. There is nothing in the Garden City Code that provides for requests for reconsideration. Accordingly, there is nothing that requires the City Council to consider the merits of the instant reconsideration request.

However, the applicant was not represented by an attorney during the public hearing on September 9, 2019, and Mr. Trout raises some interesting accusations in the Requests for Reconsideration. While city staff do not necessarily agree with the accusations in the Requests for Reconsideration, by granting the reconsideration request, it would give the Council an opportunity to correct any errors before the matter would otherwise proceed to judicial review.

# Development Services Staff Report for Garden City Council Agenda

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**To:** Mayor and City Council  
**From:** Jenah Thornborrow, Development Services Director  
**Subject:** PUD2013-00002 Bridge Townhome Extension Request  
**Date:** April 5, 2016  
**Requested Date for Council Meeting Action:** 04-11-2016

**Requested Action:** Approval or Denial of the extension of PUD2013-00002 Bridge Townhome planned unit development preliminary plat for one year. No public hearing is required.

**Applicant:** Jim Neill

**Executive Summary:** On January 13, 2016 the application expired. On February 19, 2016 the applicant requested the extension. Garden City **8-5B-6 TERM OF [Subdivision] PERMITS** governs subdivision extension requests. If the Council finds that the request for extension has failed to meet timeframes, the application would be required to go through the subdivision procedures again. If the City Council finds that the applicant has not failed to meet timelines, then the Council may extend the approval for up to one year and may also require that the application meet current applicable codes. Garden City Code has been updated since the initial approval of the subdivision.

## **Analysis Extension Request:**

- On January 13, 2014 the Garden City Council approved PUD2013-00002 Bridge Townhome planned unit development.
- On December 19, 2014 the applicant requested a one year extension. The application was granted the one time staff level extension for one year.
- On January 13, 2016 the application expired.
- On February 12, 2016 the City sent notice that the approval had expired.
- On February 19, 2016 the applicant requested the extension, and paid extension fee formalizing the request on March 22, 2016.

Garden City **8-5B-6 TERM OF [Subdivision] PERMITS** governs subdivision extension requests.

The extension was not requested until after the application had expired.

If the City Council finds that the applicant has not failed to meet timelines, then the Council may extend the approval for up to one year and may also require that the application meet current applicable codes.

### ***8-5B-6 TERM OF [Subdivision] PERMITS:***

A. *Failure To Submit Final Subdivision: **Approval of a preliminary subdivision and combined preliminary and final subdivision shall become null and void if the applicant fails to record a final subdivision within one year of the approval of the***

# Development Services Staff Report for Garden City Council Agenda

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preliminary subdivision; or one year of the combined preliminary and final subdivision.

C. *Authorize Extension: Upon written request and filed by the applicant **prior to the termination of the period in accord with subsection A of this section**, the planning official may authorize a single extension of time to record the final subdivision not to exceed one year. **Additional time extensions up to one year as determined and approved by the city council may be granted. With all extensions, the planning official or city council may require the preliminary subdivision or combined preliminary and final subdivision to comply with the current provisions of this title.***

If the City Council finds that the application has failed to meet timetables, the code indicates that the application must go through the subdivision procedure again.

**8-5B-6 TERM OF[Subdivision] PERMITS:**

**D. Failure To Meet Timetable: If the above timetable is not met and the applicant does not receive a time extension, the property shall be required to go through the subdivision procedure again. (Ord. 898-08, 9-8-2008)**

## **Application Background:**

Bridge Townhomes is the resubdivision of Lots 2 and 3 of Block 1 in the Waterfront District, 327 E. 35<sup>th</sup> Street and 3576 N. Prospect Way. Note 2 of the Waterfront District subdivision plat recorded with Ada County, Book 96, Page 1261 states: "Any resubdivision of this plat shall comply with applicable regulations in effect at the time of resubdivision".



**City of Garden City**  
Development Services Department  
6015 Glenwood Street  
(208) 472-2921 [building@gardencityidaho.org](mailto:building@gardencityidaho.org)

## **PARTIAL Permit: BLDFY2017-0004 for 327 E. 35TH ST**

**Type of Work: LOT 03 - FOOTINGS AND FOUNDATION ONLY**

**Issued Date: 5/12/2017**  
**Expiration Date: 11/12/2017**

**Permit Details:** THIS PERMIT IS A PARTIAL PERMIT TO ALLOW FOR THE CONSTRUCTION OF FOUNDATIONS AND FOOTINGS ONLY. THIS REMAINDER OF THE PERMIT SHALL NOT BE ISSUED UNTIL THE WATER SYSTEM HAS BEEN APPROVED AND CONNECTED FOR THE BRIDGE TOWNHOME SUBDIVISION AND THE BRIDGE TOWNHOMES SUBDIVISION HAS BEEN RECORDED. COMBUSTIBLE MATERIALS ARE NOT ALLOWED TO BE CONSTRUCTED PRIOR TO WATER BEING AVAILABLE AND RECORDATION OF THE SUBDIVISION.

THE SUBDIVISION APPROVALS SHALL SUPERSEDE THE BUILDING PERMIT. THE DEVELOPER WILL ASSUME ALL RISKS AND ANY COSTS TO REMOVE OR RELOCATE ANY IMPROVEMENT CONSTRUCTED IN CONFLICT WITH SUBDIVISION.

**Contractor Name/License/Phone: VERTICAL CORP - TODD WELTNER/RCE-35/(208)336-9860**

**Responsible Person/License/Phone: KEVIN WELTNER/CON17-00329 EXP.: 11-17-2020/ (650) 391-3030**

**Property Owner Name: JAMES M. NEILL**

- To schedule inspections - Call the hotline at (208) 472-2920 or visit <http://www.gardencityidaho.org> (quick links)

### **\*POST ON SITE \***

This permit is issued pursuant to, and only for the review and approval of the plans submitted in conjunction with this application based on applicable Garden City Ordinances and other pertinent State or Federal regulations. This permit does not permit any occupancy until after inspection of completion. Authorized agents of the City are authorized to enter the premises to prevent violations of applicable codes. This permit or copy of the permit shall be kept on site until a certificate of completion has been issued. It shall be unlawful to occupy the site without a valid Certificate of Occupancy.

**\*A LEGIBLE SET OF SIGNED APPROVED PLANS MUST BE KEPT ON SITE OR INSPECTIONS MAY NOT BE CONDUCTED\***

**From:** [Jenah Thornborrow](#)  
**To:** [Tom.Abbott@dbs.idaho.gov](mailto:Tom.Abbott@dbs.idaho.gov)  
**Cc:** [Arlan Smith](#); [building](#)  
**Subject:** FW: Foundation permit  
**Date:** Thursday, February 08, 2018 12:26:00 PM  
**Attachments:** [ATT00001.htm](#)  
[Todd Weltner \(3\).png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)

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Tom,

I was told this morning that that Todd Weltner had poured footings without picking up his permits. I left a message notifying him that he needed to pick up his permits ASAP and that he may end up with a stop work order. He responded with the below email indicating that he will be submitting MTI reports on the footings in his email to me below. This is not direction from the City, but if DBS is ok with this approach we can accept it.

Thank you,



**Jenah E. Thornborrow, AICP**

*Director*

Development Services, **Garden City**

p: (208) 472-2921

a: 6015 Glenwood, Garden City, ID 83714

w: [www.gardencityidaho.org/](http://www.gardencityidaho.org/) e: [planning@gardencityidaho.org](mailto:planning@gardencityidaho.org)



---

**From:** Todd Weltner [mailto:[todd@vertical-corp.com](mailto:todd@vertical-corp.com)]  
**Sent:** Thursday, February 08, 2018 11:40 AM  
**To:** Jenah Thornborrow  
**Subject:** Foundation permit

Hi Jenah-

Thanks for the call. We got ahead of ourselves, sorry. I spoke to the state inspector, Tom Abbott, and told him we will provide the MTI reports on the footings and that we will not pour anything until the foundation permit is our hands. Since Mary sent me the invoice, I assume the foundation permits are ready to go. I'll be down later today to get those. Thanks, Todd

**VERTICAL**

Todd Weltner

p. 208-336-9860 f. 208-336-9865

300 East 35th St

Garden City, ID 83714

w. vertical-corp.com | e. todd@vertical-corp.com



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Total Control Panel

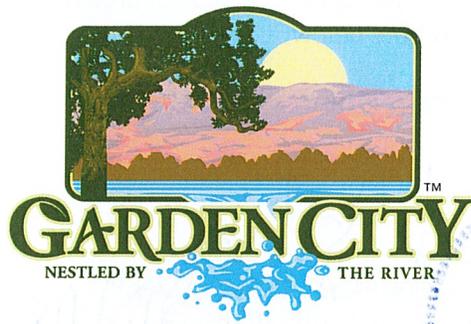
[Login](#)

To: [jthorn@gardencityidaho.org](mailto:jthorn@gardencityidaho.org)

[Remove](#) this sender from my allow list

From: [todd@vertical-corp.com](mailto:todd@vertical-corp.com)

*You received this message because the sender is on your allow list.*



## DEVELOPMENT SERVICES DEPARTMENT

6015 Glenwood Street • Garden City, Idaho 83714  
Phone 208/472-2921 • Fax 208/472-2996 •  
[www.gardencityidaho.org](http://www.gardencityidaho.org)

January 29, 2018

Surfers Paradise, LLC  
Attn: Todd Weltner  
300 E. 35th St.  
Garden City, ID 83714

**RE: Request for partial permits to construct foundations prior to the full release of building permits BLDfy2017-0203, BLDfy2017-0205 - BLDfy2017-0223 (20 Permits) Lots 1-5, 7-12, 13-15, 18, 20-24 - Bridge Townhomes Subdivision - Risk Acknowledgement**

Mr. Weltner,

You have recently requested the ability to build foundations for 20 lots in conjunction with building permits BLDfy2017-0203, BLDfy2017-0205 - BLDfy2017-0223 in the proposed Bridge Townhomes Subdivision. The subdivision has not been completed or recorded. After careful consideration, your request has been approved with the following conditions:

- The Bridge Townhome Subdivision is not considered approved until the plat has been recorded and the subdivision has been constructed in accordance with the approved construction plans. The recordation of the plat and the completion of the construction plans may require unforeseen changes for final approvals. The approvals for the Bridge Townhome Subdivision shall supersede the partial building permit approvals. Developer assumes all risks and any costs to remove or relocate any improvement or utility that may be located in error with the pending Bridge Townhomes Subdivision approvals.
- The Developer agrees to pay for the building permits prior to issuance of these partial permits. The Developer also agrees to pay fees to Garden City at \$53.00/hour associated to amend the City's system to accurately reflect the actual addresses of permits once the county has assigned new addressing for the subdivision. These fees must be paid prior to or in conjunction with the release of the surety and prior to a Certificate of Occupancy for each structure.
- The permits are limited in scope to the construction of footings and foundation. Combustible materials are not allowed to be constructed prior to water being available and approved by the Garden City Public Works Department and North Ada County Fire and Rescue District and the recordation of the subdivision.

**Bridge Townhome Subdivision**

**Partial Permit: BLDfy2017-0203, BLDfy2017-0205 - BLDfy2017-0223**

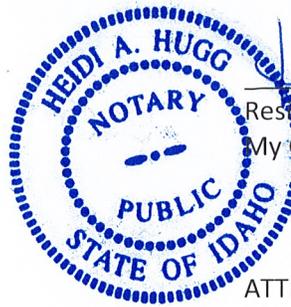
**Acknowledgement:**

These risks and requirements are acknowledged by the undersigned developer of the subject property, and witnessed by the City of Garden City, on the day and year as indicated below:

DEVELOPER:

NOTARY PUBLIC:

  
\_\_\_\_\_  
Todd Weltner, Registered Agent  
Surfers Paradise, LLC  
Date: 2-9-18



  
\_\_\_\_\_  
Residing at Garden City  
My Commission Expires 2/21/18

CITY OF GARDEN CITY:

ATTEST:

  
\_\_\_\_\_  
Jenah E. Thornborrow, Development Services Director  
Date: 1/29/2018

  
\_\_\_\_\_  
Lisa Leiby, City Treasurer/ Clerk  
Date: 1/29/18



**AGREEMENT FOR PARTIAL STOP WORK ORDER RELEASE ON BUILDINGS WITHIN THE BRIDGE TOWNHOME SUBDIVISION**

I Todd Weltner agree to the following:

Building permits have been conditionally issued in the Bridge Townhome Subdivision for lots 2-4, 8-11, 13-15, 18-24.

Building permits **have not been issued** for lots 1, 5, 7, and 12. I agree to not do work, or cause work to be done on these lots. I will keep the Stop Work Order posted on these lots until which time permits have been issued.

As I have requested that the City expedite the permits outside of the typical processes I understand that there is documentation that cannot be available and am causing additional expense to the City.

I understand that the redlines on the plans made by reviewers are not present on the plans provided to me and cannot be present until formalized through the ProjectDox software. I am aware that this project cannot be processed through ProjectDox within the timeframes requested by me. The City has provided me with a spreadsheet of the redlines, and all other approved documents. I agree to have this documentation on site as a substitute to the approved plans. While the approved plans are not available, I understand that I am responsible for ensuring that the plans are constructed according to approvals, including those items that are shown in redline on the plans approved through ProjectDox. I will not hold the City liable for any work that is done incorrectly for issuing plans without the redlines. I also understand that any changes to the approved plans will be submitted to the City as plan modifications. I further understand that it is a requirement to have a copy of the stamped approved plans on site. I agree to have a copy of the stamped approved plans on site no later than June 19, 2018 and will maintain them on site as required through the duration of the building permit process.

As issuing the permits out of standard processes is causing additional work load, and printing costs to the City I agree to pay for these costs generated by my request to expedite the permits.



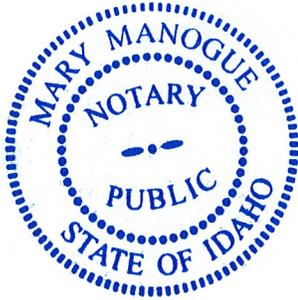
Todd Weltner

June 15, 2018

STATE OF IDAHO )  
 ) ss.  
County of Ada )

On this 15<sup>th</sup> day of June, 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared Todd Weltner, known or identified to me to be the applicant that executed the within and foregoing instrument, or the person who executed the instrument on behalf of said, and acknowledged to me that such executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Mary Manogue

Notary Public for Idaho

Residing at Garden City

My commission expires: 05/09/22

**From:** [Kegan Garcia](#)  
**To:** [Todd Weltner](#)  
**Subject:** SUBFY2017-1 - FW: Bridge Townhome Subdivision - Final Permit set  
**Date:** Thursday, January 18, 2018 4:58:07 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image004.png](#)

---

Hello Todd,

The Mayor has mentioned that Jim Neil has been in touch regarding the Bridge Townhomes Subdivision and the anticipated start of construction. Mr. Neil stated that footings were scheduled to be poured on Monday, 01/22/18, however as of date, any work relating to the building permits has not yet been approved as the final plat has not been approved.

If you would like to move forward with pouring concrete we may be able to work with you however there would be requirements to fulfill. Those requirements would include that the subdivision receive a formal sign off from reviewers and/or inspectors and a surety/bond be in place. In addition, if the subdivision has passed all inspections, reviewers (building permit reviewers) must approve a "partial building permit" to allow for the concrete only. \*Please make note that this is not a complete list of those requirements.

As concrete is anticipated to pour on Monday, the possibility of obtaining all of the approvals and re-reviewing the permit submittals by then is not feasible. More time will be needed in order to get things lined up to allow the work.

Please advise if you would like to move forward with obtaining approvals for the concrete work only.

Thank you,



**Kegan Garcia**

*Assistant Planner*

Development Services, **Garden City**

p: 208-472-2929

a: 6015 Glenwood Street, Garden City, ID 83714

w: [www.gardencityidaho.org](http://www.gardencityidaho.org) e: [kgarcia@gardencityidaho.org](mailto:kgarcia@gardencityidaho.org)



---

**From:** Kegan Garcia  
**Sent:** Tuesday, December 12, 2017 8:30 AM  
**To:** 'Andrew Wheeler'  
**Cc:** Douglas Gibson; Todd Weltner (todd@vertical-corp.com)  
**Subject:** RE: Bridge Townhome Subdivision - Final Permit set

Good Morning,

The final plat has not been signed and a surety has not been provided. Once these items are received a review will take place on the permits. Please anticipate a few days for the permits to be reviewed once the materials are received.

Thank you,



**Kegan Garcia**

*Assistant Planner*

Development Services, **Garden City**

p: 208-472-2929

a: 6015 Glenwood Street, Garden City, ID 83714

w: [www.gardencityidaho.org](http://www.gardencityidaho.org) e: [kgarcia@gardencityidaho.org](mailto:kgarcia@gardencityidaho.org)



---

**From:** Andrew Wheeler [<mailto:andreww@tpchousing.com>]  
**Sent:** Monday, December 11, 2017 4:20 PM  
**To:** Kegan Garcia  
**Cc:** Douglas Gibson; Todd Weltner ([todd@vertical-corp.com](mailto:todd@vertical-corp.com))  
**Subject:** RE: Bridge Townhome Subdivision - Final Permit set

Kegan,  
The only item holding up the permits was the Final Plat Recording. It was our understanding this was completed.

Please confirm if the final plat is or is not complete and if there are any other items holding permits from being approved on all units / applications.

Thanks,  
Andrew

---

**From:** Kegan Garcia [<mailto:kgarcia@GARDENCITYIDAHO.ORG>]  
**Sent:** Monday, December 11, 2017 4:19 PM  
**To:** Andrew Wheeler  
**Cc:** Douglas Gibson; Todd Weltner ([todd@vertical-corp.com](mailto:todd@vertical-corp.com))  
**Subject:** RE: Bridge Townhome Subdivision - Final Permit set

Are you referring to the building permits? If so, the permits are not available to download as they have not been approved. Once approved, an email will be distributed from ProjectDox advising that plans are ready for download.

Thank you,



**Kegan Garcia**

*Assistant Planner*

Development Services, **Garden City**

p: 208-472-2929

a: 6015 Glenwood Street, Garden City, ID 83714

w: [www.gardencityidaho.org](http://www.gardencityidaho.org) e: [kgarcia@gardencityidaho.org](mailto:kgarcia@gardencityidaho.org)



---

**From:** Andrew Wheeler [<mailto:andreww@tpchousing.com>]  
**Sent:** Monday, December 11, 2017 3:49 PM  
**To:** Kegan Garcia  
**Cc:** Douglas Gibson; Todd Weltner ([todd@vertical-corp.com](mailto:todd@vertical-corp.com))  
**Subject:** Bridge Townhome Subdivision - Final Permit set

Kegan,

Per my voicemail, can you direct me to where I would be able to download the City Approved permit set?

Thanks,

**Andrew Wheeler**

Pacific West Architecture

430 E. State Street

Eagle, ID 83616

[andreww@tpchousing.com](mailto:andreww@tpchousing.com)

208.908.4864

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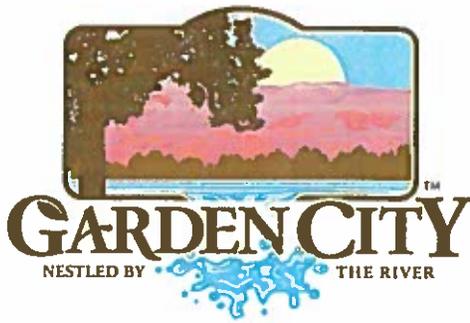
Total Control Panel

[Login](#)

To: [kgarcia@gardencityidaho.org](mailto:kgarcia@gardencityidaho.org) [Remove](#) this sender from my allow list

From: [andreww@tpchousing.com](mailto:andreww@tpchousing.com)

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## CITY OF GARDEN CITY

6015 Glenwood Street • Garden City, Idaho 83714  
Phone 208/472-2900 • Fax 208/472-2996

# **STOP WORK ORDER / CEASE AND DESIST Work** **Without Required Permits** **DO NOT REMOVE**

**TAMPERING WITH THIS NOTICE MAY RESULT IN FURTHER CRIMINAL  
ENFORCEMENT**

### **Surfers Paradise, LLC / Vertical Corp. / Todd Weltner**

Contractor

### **James M. Neill**

Property Owner

### **BLDFY2017-0203 / BLDFY2017-0205 / BLDFY2017-0223 (20 permits)**

Permit NO.

### **327 E. 35<sup>th</sup> Street**

Site Address

### **ISSUES:**

Work without required permits. Combustible materials are not allowed to be constructed prior to water being available and recordation of the subdivision.

The existing permits are partial permits to allow for the construction of foundations and footings only. The remainder of the permits have not been issued, and will not be issued until the water system has been approved and connected for the Bridge Townhome Subdivision and the Bridge Townhomes Subdivision has been recorded.

### **REMEDY:**

Cease all construction work until the remainder of the permits have been applied for and issued.

### **CODE:**

**GARDEN CITY BUILDING CODE**

**7-1-3 PERMIT REQUIRED:<sup>1</sup>**

Any authorized agent and/or property owner who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy to a different division of the same group of occupancies or a different group of occupancies of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done shall first make application to Garden City and obtain the required permit. The permit, or copy, and the approved plans shall be kept on the site of the work until the completion of the project.

**7-1-14 VIOLATIONS AND PENALTIES:**

A. It shall be unlawful for any person, firm or corporation, or property owner to authorize any person, firm or corporation to erect, construct, alter, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

B. Authorized agents of the city are sanctioned to serve notice of violation or order on the property owner and/or person responsible for the erection, construction, alteration, repair, moving, removal, demolition, or occupancy of a building or structure in violation of the provisions of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and abatement of the violation within a specified time period.

C. Whenever any building or structure or equipment therein regulated by this code is being used contrary to the provisions of this code and/or other laws which are enforced by Garden City, the administrator of building safety services or his or her designee may order such use discontinued and the structure, or portion thereof, vacated and the utility services disconnected by notice served on any person causing such use to be continued. Such person shall discontinue the use or make the structure or portion thereof comply with the requirements of this code, and/or other laws which are enforced by Garden City, within a specified time period.

D. Infraction: Any person doing work or occupying a building or structure, or authorizing work or occupancy, without required permits or violating any provision of this chapter or an issued permit shall be deemed guilty of an infraction unless otherwise specifically provided. Infractions under this title are punishable by a fine of one hundred dollars (\$100.00) plus court costs unless otherwise specifically provided. Each day of noncompliance is a separate infraction. Persons found working without required permits or in violation of issued permits two (2) times or more in a calendar year may be prohibited from doing work in Garden City for up to one (1) calendar year.

E. Misdemeanor: Any person violating any provision of a notice of violation or a second and any subsequent conviction for the same infraction provision under this title within one (1) year shall be a misdemeanor under this title. Misdemeanors under this title are punishable as provided in section 1-4-1 of this code unless otherwise specifically provided.

**ISSUED BY:**   
Tom J. Abbott, Building Official

**DATE:** 6-11-2018

**APPROVAL MUST BE GRANTED BY CITY PRIOR TO  
CONTINUED WORK**

<sup>1</sup> This project has been reviewed under the International Building Code (2012 Edition) and the International Residential Code (2012 Edition).







**AGREEMENT FOR PARTIAL STOP WORK ORDER RELEASE ON BUILDINGS WITHIN THE BRIDGE TOWNHOME SUBDIVISION**

I Todd Weltner agree to the following:

Building permits have been conditionally issued in the Bridge Townhome Subdivision for lots 2-4, 8-11, 13-15, 18-24.

Building permits **have not been issued** for lots 1, 5, 7, and 12. I agree to not do work, or cause work to be done on these lots. I will keep the Stop Work Order posted on these lots until which time permits have been issued.

As I have requested that the City expedite the permits outside of the typical processes I understand that there is documentation that cannot be available and am causing additional expense to the City.

I understand that the redlines on the plans made by reviewers are not present on the plans provided to me and cannot be present until formalized through the ProjectDox software. I am aware that this project cannot be processed through ProjectDox within the timeframes requested by me. The City has provided me with a spreadsheet of the redlines, and all other approved documents. I agree to have this documentation on site as a substitute to the approved plans. While the approved plans are not available, I understand that I am responsible for ensuring that the plans are constructed according to approvals, including those items that are shown in redline on the plans approved through ProjectDox. I will not hold the City liable for any work that is done incorrectly for issuing plans without the redlines. I also understand that any changes to the approved plans will be submitted to the City as plan modifications. I further understand that it is a requirement to have a copy of the stamped approved plans on site. I agree to have a copy of the stamped approved plans on site no later than June 19, 2018 and will maintain them on site as required through the duration of the building permit process.

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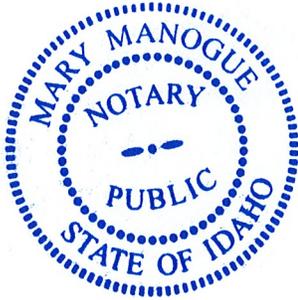
Todd Weltner

June 15, 2018

STATE OF IDAHO )  
 ) ss.  
County of Ada )

On this 15<sup>th</sup> day of June, 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared Todd Weltner, known or identified to me to be the applicant that executed the within and foregoing instrument, or the person who executed the instrument on behalf of said, and acknowledged to me that such executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Mary Manogue

Notary Public for Idaho

Residing at Garden City

My commission expires: 05/09/22

**From:** [Jenah Thornborrow](#)  
**To:** [Todd Weltner](#)  
**Cc:** [Kim Trout](#); [building](#)  
**Subject:** RE: Stop Work Order  
**Date:** Tuesday, June 12, 2018 1:17:00 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[image005.png](#)  
[Signed Original - Risk Acknowledgement.pdf](#)

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Todd,

The reason that you have a stop work order is because you are doing work without the required building permits. It is my understanding that the building official, Tom Abbott, saw that work was being done without a permit last week and he gave a verbal warning that work needed to stop until you received the permits. He went back by yesterday and saw that the work had continued without the required permits. The City cannot lift the Stop Work Order until the building permits are issued. Your email states that you are anticipating inspections. No inspections can be conducted until the required permits are issued.

The stop work order appears to utilize the wording from the permits that were issued for the foundations. I presume that this is why there is reference to the subdivision water system. While this particular issue may have been resolved, the permits cannot be issued until the subdivision has been recorded.

Sincerely,



**Jenah E. Thornborrow, AICP**

*Director*

Development Services, **Garden City**

p: (208) 472-2921

a: 6015 Glenwood, Garden City, ID 83714

w: [www.gardencityidaho.org/](http://www.gardencityidaho.org/) e: [planning@gardencityidaho.org](mailto:planning@gardencityidaho.org)



---

**From:** Todd Weltner [mailto:[todd@vertical-corp.com](mailto:todd@vertical-corp.com)]  
**Sent:** Tuesday, June 12, 2018 6:51 AM  
**To:** Jenah Thornborrow  
**Cc:** John Evans; Kim Trout  
**Subject:** Stop Work Order

Jenah-

We would appreciate your help in getting the Stop Work Order removed at Bridge Townhomes ASAP. All signatures have been obtained for the Final Plat (including the City of Garden City), awaiting the County Surveyor's blessing so that the Final Plat can be recorded. Any motivation you can provide to get that off their desk is appreciated.

As you know, the fire hydrants onsite were signed off months ago by Garden City Water, so

we are confused about the language on the S.W.O. stating otherwise.

We would like to proceed with framing since nothing will be covered and any necessary inspections are weeks away. Please let me know. Thanks, Todd

**VERTICAL**

Todd Weltner

p. 208-336-9860 f. 208-336-9865

300 East 35th St

Garden City, ID 83714

w. vertical-corp.com | e. todd@vertical-corp.com



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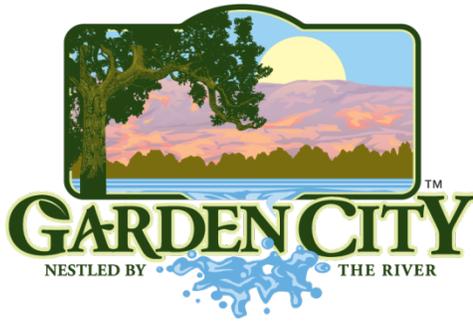
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## CITY OF GARDEN CITY

6015 Glenwood Street ■ Garden City, Idaho 83714  
Phone 208/472-2900 ■ Fax 208/472-2996

# **STOP WORK ORDER / CEASE AND DESIST Work** **Without Required Permits** **DO NOT REMOVE**

**TAMPERING WITH THIS NOTICE MAY RESULT IN FURTHER CRIMINAL  
ENFORCEMENT**

**Surfers Paradise, LLC / Vertical Corp. / Todd Weltner**

Contractor

**James M. Neill**

Property Owner

**BLDFY2017-0203 / BLDFY2017-0205 / BLDFY2017-0223 (20 permits)**

Permit NO.

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Site Address

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B. Authorized agents of the city are sanctioned to serve notice of violation or order on the property owner and/or person responsible for the erection, construction, alteration, repair, moving, removal, demolition, or occupancy of a building or structure in violation of the provisions of this code, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and abatement of the violation within a specified time period.

C. Whenever any building or structure or equipment therein regulated by this code is being used contrary to the provisions of this code and/or other laws which are enforced by Garden City, the administrator of building safety services or his or her designee may order such use discontinued and the structure, or portion thereof, vacated and the utility services disconnected by notice served on any person causing such use to be continued. Such person shall discontinue the use or make the structure or portion thereof comply with the requirements of this code, and/or other laws which are enforced by Garden City, within a specified time period.

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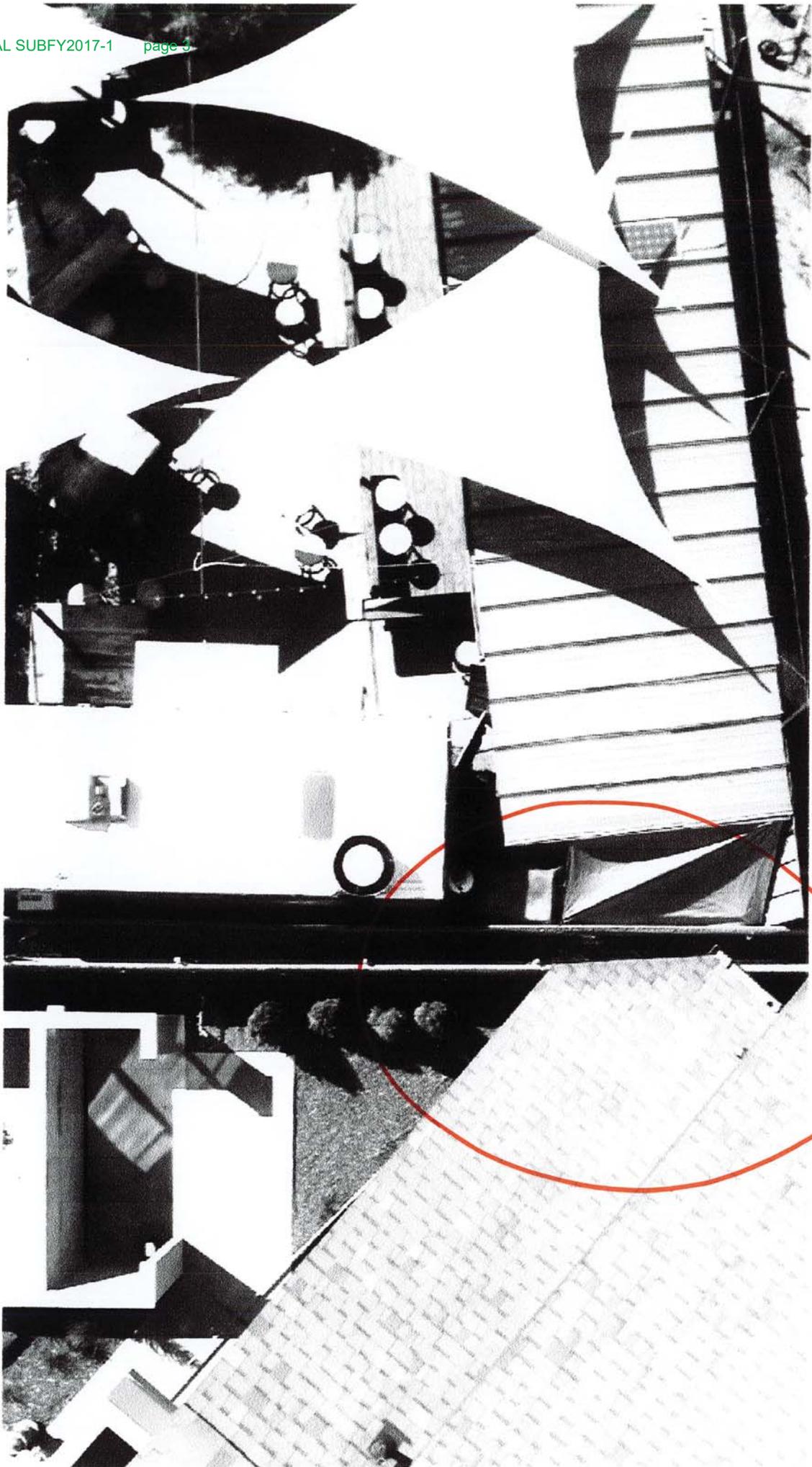
E. Misdemeanor: Any person violating any provision of a notice of violation or a second and any subsequent conviction for the same infraction provision under this title within one (1) year shall be a misdemeanor under this title. Misdemeanors under this title are punishable as provided in section 1-4-1 of this code unless otherwise specifically provided.

**ISSUED BY:** \_\_\_\_\_  
Tom J. Abbott, Building Official

**DATE:** \_\_\_\_\_

**APPROVAL MUST BE GRANTED BY CITY PRIOR TO  
CONTINUED WORK**

<sup>1</sup> This project has been reviewed under the International Building Code (2012 Edition) and the International Residential Code (2012 Edition).





May 23, 2019

To: City of Garden City, Planning Department

From: Surfer's Paradise LLC

Re: Bridge Townhomes – PUD Modification

Per the meeting on March 26<sup>th</sup>, 2019, the Bridge Townhome Subdivision has several as-built conditions that need to be addressed.

- 1.) Railing profile: Drawings accurately reflect vertical pickets or glass panels. Ref. shts A5.1 & 5.2 for buildings A & B.
- 2.) Breezeways: Between units 8 & 9 and 10 & 11 there is a breezeway for access to the side yards of units 8 & 10. Access has been simplified and is provided by landscape stepping-stones. Ref. shts A1.1, 1/EX-1.1 and A3.1 (bldg. B).
- 3.) Greenbelt steps: Between units 8 & 9 and 10 & 11 the steps to the Greenbelt have been combined to simplify access to the back patios. Ref. shts A1.1, A3.1 (bldg. B) and 1/A5.1 (bldg. B).
- 4.) Unit #7 Greenbelt stairway: The exterior stairway to the Greenbelt for the 2<sup>nd</sup> floor deck of unit #7 has been eliminated because an interior stairway better serves this function. Ref. sht A5.1 (bldg. B).
- 5.) Fencing: Greenbelt fencing and gates have been clarified. Ref. sht A1.1.
- 6.) Commercial patio slabs: Commercial units #1 and #15 have expanded concrete patio slabs for more outdoor seating. Ref. sht A1.1.
- 7.) Elimination of exterior doors: Exterior doors in units 1, 7 and 12 were unnecessary and have been eliminated. Ref. shts 2/A5.1 (bldg. A) and 4/A5.1 (bldg. B).
- 8.) Roofing material: Unit 5 roofing material for tower element has been changed to asphalt due to lack of pitch. Ref. sht 2/A5.1 and 1/A6.1 (bldg. A).
- 9.) Roof soffit over property line: Unit 18 (bldg. C) roof/soffit to be cut back so that it does not extend over property line. Ref. sht A1.6.
- 10.) Mail boxes & bike rack: Images for common mailbox and bike rack provided. Ref. sht EX1.3.
- 11.) Retaining wall: Decorative boulder retaining wall for units 8-11 has been further clarified. Due to grade of Greenbelt, grade of circulation driveway, floor heights and rear patios, height and setback of retaining wall exceeds code limitations. Ref. EX1.1, EX 1.2 & EX1.4.

## Kevin Wallis

---

**From:** Todd Weltner <todd@vertical-corp.com>  
**Sent:** Tuesday, August 20, 2019 2:21 PM  
**To:** Kevin Wallis  
**Subject:** Fwd: Spot drains  
**Attachments:** ATT00001.htm

FYI

**VERTICAL**

Todd Weltner

p. 208-336-9860 f. 208-336-9865  
300 East 35th St  
Garden City, ID 83714  
w. vertical-corp.com | e. todd@vertical-corp.com



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Begin forwarded message:

**From:** David Crawford <[dacrawford@baengineers.com](mailto:dacrawford@baengineers.com)>  
**Subject:** RE: Spot drains  
**Date:** August 14, 2019 at 12:16:35 PM MDT  
**To:** Todd Weltner <[todd@vertical-corp.com](mailto:todd@vertical-corp.com)>

Todd,

Please see the initial calculations for the drywell sizing

1. 4' wide, 4' long, 3' deep – 1-foot of clean sand
2. 4' wide, 4' long, 3' deep – 1-foot of clean sand

The areas were calculated for roof drainage with a "C" value of 0.95. Infiltration rate of 8-inches per hour.

The top and sides of the drain rock should with 4-oz sy. Non woven filter fabric.

Let me know if this works at the locations. We can adjust them to be a smaller foot print and deeper if necessary.

Sincerely,

**David Crawford**

B&A Engineers, Inc.

208.343.3381

[dacrawford@baengineers.com](mailto:dacrawford@baengineers.com)

**From:** Todd Weltner <[todd@vertical-corp.com](mailto:todd@vertical-corp.com)>  
**Sent:** Wednesday, August 14, 2019 11:52 AM  
**To:** David Crawford <[dacrawford@baengineers.com](mailto:dacrawford@baengineers.com)>  
**Subject:** Spot drains

Dave, we have two areas that the inspector requested spot drains (dry wells):

1. Bldg. D/15: approx. 25' x 12'
2. Bldg. C/18: approx. 15' x 20'

thx

**VERTICAL**

Todd Weltner

p. 208-336-9860 f. 208-336-9865

300 East 35th St

Garden City, ID 83714

w. [vertical-corp.com](http://vertical-corp.com) | e. [todd@vertical-corp.com](mailto:todd@vertical-corp.com)



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---

Total Control Panel

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To: [kwallis@gardencityidaho.org](mailto:kwallis@gardencityidaho.org)

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From: [todd@vertical-corp.com](mailto:todd@vertical-corp.com)

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DIGLINE

50 South Cole Road
Boise, ID 83709
1-800-342-1585
(208) 342-1585

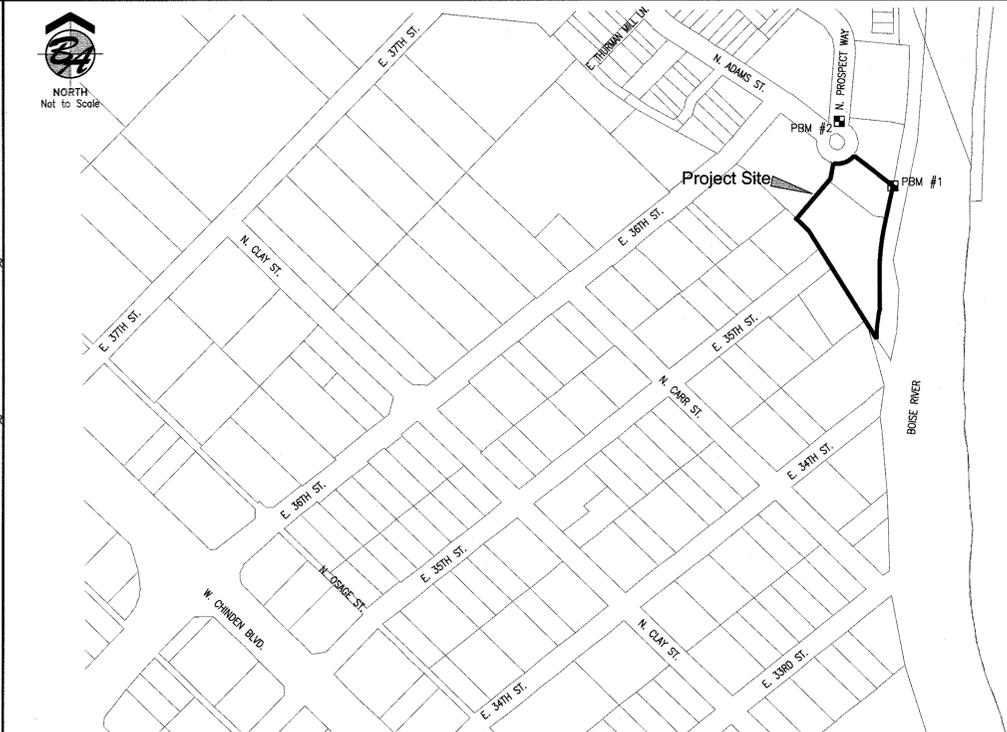
Bridge Townhomes Subdivision

Private Street, Water, & Sanitary Sewer Construction Plans

Street and General Construction Notes

- 1. ALL CONSTRUCTION WITHIN THE PUBLIC RIGHTS-OF-WAY SHALL CONFORM TO THE LATEST EDITION OF THE IDAHO STANDARDS FOR PUBLIC WORKS CONSTRUCTION (I.S.P.W.C.) AND THE ADA COUNTY HIGHWAY DISTRICT (A.C.H.D.) SUPPLEMENTAL SPECIFICATIONS. NO EXCEPTIONS TO DISTRICT POLICY, STANDARDS AND THE I.S.P.W.C. WILL BE ALLOWED UNLESS SPECIFICALLY AND PREVIOUSLY APPROVED IN WRITING BY THE DISTRICT.
2. ALL CONSTRUCTION, MATERIALS, APPURTENANCES AND TESTING SHALL COMPLY WITH THE REQUIREMENTS OF THE 2015 EDITION OF THE IDAHO STANDARDS FOR PUBLIC WORKS CONSTRUCTION (ISPMC), UNLESS SPECIFICALLY MODIFIED BY THESE CONSTRUCTION DOCUMENTS.
3. THE CONTRACTOR, ALL APPLICABLE SUB-CONTRACTORS, DEVELOPER/OWNER, UTILITY COMPANY REPRESENTATIVES, A GARDEN CITY DEPARTMENT OF PUBLIC WORKS REPRESENTATIVE AND AN ADA COUNTY HIGHWAY DISTRICT REPRESENTATIVE SHALL ATTEND A PRE-CONSTRUCTION CONFERENCE PRIOR TO COMMENCEMENT OF CONSTRUCTION.
4. THE CONTRACTOR SHALL OBTAIN A CONSTRUCTION PERMIT FROM THE ADA COUNTY HIGHWAY DISTRICT AT LEAST 24 HOURS PRIOR TO COMMENCING CONSTRUCTION OF ANY OF THE IMPROVEMENTS SHOWN HEREON LOCATED WITHIN PUBLIC RIGHT-OF-WAY.
5. CONSTRUCTION INSPECTION SHALL BE PERFORMED BY THE PROJECT ENGINEER, THE ADA COUNTY HIGHWAY DISTRICT AND/OR THE GARDEN CITY DEPARTMENT OF PUBLIC WORKS. INSPECTION BY THE GARDEN CITY DEPARTMENT OF PUBLIC WORKS WILL BE FOR DEPARTMENT PURPOSES ONLY TO SPOT CHECK WORK COMPLIANCE WITH THE CITY'S REQUIREMENTS. IT IS THE PROJECT ENGINEER'S RESPONSIBILITY TO ASSURE COMPLIANCE WITH THE PROJECT PLANS AND SPECIFICATIONS.
6. THE CONTRACTOR SHALL VERIFY SITE CONDITIONS AND DIMENSIONS PRIOR TO BEGINNING WORK. ANY DEVIATIONS, OMISSIONS OR ERRORS SHALL BE PRESENTED TO THE PROJECT ENGINEER FOR RESOLUTION. ANY CHANGES TO THE PLANS AND SPECIFICATIONS SHALL BE SUBMITTED TO AND APPROVED BY THE GARDEN CITY DEPARTMENT OF PUBLIC WORKS PRIOR TO IMPLEMENTATION OF THE CHANGE. SAID CHANGE MAY ALSO NEED TO BE SUBMITTED TO THE IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY FOR APPROVAL.
7. THE CONTRACTOR SHALL CONTACT DIGILINE (811) AND OTHER APPROPRIATE UTILITY PROVIDERS FOR UTILITY LOCATIONS AT LEAST 72 HOURS PRIOR TO BEGINNING ANY EXCAVATION.
8. ANY WATERS CREATED BY DEWATERING SHALL NOT BE PERMITTED TO DIRECTLY DISCHARGE TO ANY EXISTING SURFACE WATER FACILITY. PRIOR TO DISCHARGING TO WATERS OF THE STATE OF IDAHO, THE CONTRACTOR SHALL SECURE A SHORT-TERM ACTIVITY EXEMPTION FROM THE APPLICABLE REGIONAL OFFICE OF THE IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY.
9. HORIZONTAL AND VERTICAL SEPARATION OF POTABLE AND NON-POTABLE PIPELINES SHALL MEET THE REQUIREMENTS OF ISPMC SECTION 405 AND ISPMC DRAWING NO. 407.
10. THE CONTRACTOR SHALL VERIFY SITE CONDITIONS AND DIMENSIONS PRIOR TO BEGINNING WORK. ANY DEVIATIONS, OMISSIONS OR ERRORS SHALL BE PRESENTED TO THE PROJECT ENGINEER FOR RESOLUTION. ANY CHANGES TO THE PLANS AND SPECIFICATIONS SHALL BE SUBMITTED TO AND APPROVED BY THE GARDEN CITY DEPARTMENT OF PUBLIC WORKS PRIOR TO IMPLEMENTATION OF THE CHANGE. SAID CHANGE MAY ALSO NEED TO BE SUBMITTED TO THE IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY FOR APPROVAL.
11. THE CONTRACTOR SHALL CONTACT DIGILINE (800-342-1585) AND OTHER APPROPRIATE UTILITY PROVIDERS FOR UTILITY LOCATIONS AT LEAST 72 HOURS PRIOR TO BEGINNING ANY EXCAVATION.
12. ANY WATERS CREATED BY DEWATERING SHALL NOT BE PERMITTED TO DIRECTLY DISCHARGE TO ANY EXISTING SURFACE WATER FACILITY. PRIOR TO DISCHARGING TO WATERS OF THE STATE OF IDAHO, THE CONTRACTOR SHALL SECURE A SHORT-TERM ACTIVITY EXEMPTION FROM THE APPLICABLE REGIONAL OFFICE OF THE IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY.
13. HORIZONTAL AND VERTICAL SEPARATION OF POTABLE AND NON-POTABLE PIPELINES SHALL MEET THE REQUIREMENTS OF ISPMC SECTION 405 AND ISPMC DRAWING NO. 407.
14. MANHOLE GRADE RINGS, CAST IRON RINGS AND COVERS SHALL BE PROVIDED BY THE SEWER CONTRACTOR. THE ROAD CONTRACTOR SHALL INSTALL THE SEWER GRADE RINGS, CAST IRON RINGS, COVERS AND CONCRETE COLLARS TO FINISH GRADE. WATER VALVE BOXES AND COVERS SHALL BE PROVIDED BY THE WATER CONTRACTOR. THE ROAD CONTRACTOR SHALL INSTALL THE WATER VALVE BOXES COVERS AND CONCRETE COLLARS TO FINISH GRADE.
15. ALL ASPHALT MATCH/REPAIR SHALL BE DONE IN ACCORDANCE WITH I.S.P.W.C. STANDARD DRAWING SD-806. SAW CUT SHALL BE PARALLEL AND PERPENDICULAR TO THE STREET CENTERLINE. SEE DETAIL 4, SHEET 7.

Vicinity Map



Legend

- PROJECT / PROPERTY BOUNDARY
EXISTING LOT LINE
PROPOSED LOT LINE
STREET CENTERLINE
EXISTING ROLLED CURB AND GUTTER
PROPOSED 3" ROLLED CURB & GUTTER
EXISTING EDGE OF PAVEMENT
EXISTING FENCE
EXISTING WATER MAIN, SIZE NOTED
EXISTING WATER WATER VALVE
INSTALL WATER WATER VALVE. SAME SIZE AS MAINLINE
EXISTING FIRE HYDRANT, TO BE RELOCATED
RELOCATED FIRE HYDRANT
PROPOSED 8" C-900 PVC WATER MAIN LINE
PROPOSED 1" DOUBLE METER WATER SERVICE
PROPOSED 1" SINGLE METER WATER SERVICE
PROPOSED 4" BLOW-OFF
EXISTING 8" SANITARY SEWER MAIN, UNLESS SIZE OTHERWISE NOTED
EXISTING SANITARY SEWER SERVICE
PROPOSED 8" SANITARY SEWER MAIN LINE
PROPOSED 4" TYPE "C" SEWER SERVICE PER ISPMC SD-511.
EXISTING SANITARY SEWER MANHOLE
PROPOSED SANITARY SEWER MANHOLE
EXISTING POWER LINES
EXISTING COMMUNICATION LINES
EXISTING GAS LINES
EXISTING EASEMENT, TYPE AND SIZE NOTED HEREON
EXISTING INTERMOUNTAIN GAS EASEMENT, INST. NO. 106013809
EXISTING ACHD SIDEWALK EASEMENT, INST. NO. 106103321
EXISTING BOISE CITY SANITARY SEWER EASEMENT, INST. NO.
CENTERLINE OF EXISTING GREENBELT EASEMENT
EXISTING MAJOR CONTOUR LINE WITH ELEVATION
EXISTING MINOR CONTOUR LINE WITH ELEVATION
LOT NUMBER
EXISTING TELEPHONE RISER
EXISTING UTILITY POLE

Fire Rescue Notes

- 1. DURING CONSTRUCTION OF BUILDINGS ON THE SITE, FIRE ACCESS SHALL BE KEPT CLEAR OF PARKED CARS AND OTHER VEHICLES, CONSTRUCTION MATERIAL AND ALL OTHER OBSTRUCTIONS. CONSTRUCTION CREWS SHALL BE PROVIDED A PLACE TO PARK SO AS NOT TO BLOCK FIRE APPARATUS DURING CONSTRUCTION.
2. FIRE FLOW REQUIREMENTS FOR BUILDINGS SHALL BE PROVIDED AS PER THE 2003 INTERNATIONAL FIRE CODE, SEC. B105.1, B105.2, TABLE B105.1. AVAILABLE FLOWS SHALL BE DETERMINED BY TESTING AT HYDRANTS AFTER COMPLETION OF ON-SITE WATER SYSTEM AND CONNECTION OF SYSTEM TO PUBLIC WATER SUPPLY.
3. ALL MIXED USE COMMERCIAL AND RESIDENTIAL BUILDINGS SHALL HAVE AN APPROVED SPRINKLER SYSTEM INSTALLED AS PER NFPA 13.
4. PORTABLE FIRE EXTINGUISHERS (3A-40BC) SHALL BE ON SITE DURING CONSTRUCTION.
5. FIRE HYDRANTS SHALL CONFORM TO AWWA C-502 AND I.S.P.W.C. DRAWING SD-404. THE PUMPER NOZZLE OUTLET SHALL BE EQUIPPED WITH A LARGE DIAMETER "STORZ" ADAPTOR.
6. FIRE HYDRANTS SHOULD BE LOCATED DIRECTLY BEHIND A CURB, SIDEWALK OR AN APPROVED LOCATION BY THE PUBLIC WORKS DEPARTMENT.

Drainage Construction Notes

- 1. ALL INSPECTIONS SHALL REQUIRE A 24-HOUR NOTICE PRIOR TO THE REQUESTED INSPECTION TIME. CALL THE INSPECTION HOT LINE AT 472-2920.
2. PRIOR TO ANY EARTHWORK A 24-HOUR NOTICE TO BEGIN CONSTRUCTION IS REQUIRED. CALL INSPECTION HOT LINE AT 472-2920.
3. DRAINAGE INSPECTIONS SHALL BE CONDUCTED AT ANY GIVEN TIME OR UPON REQUEST, DURING CONSTRUCTION, VERIFYING COMPLIANCE WITH THE CITY REQUIREMENTS AND CONSTRUCTION ACTIVITIES ARE FOLLOWED AS PER THE APPROVED PLANS.
4. ALL DRAINAGE CONSTRUCTION OBSERVATIONS MUST BE PERFORMED BY THE APPLICANT'S DESIGN ENGINEER. CONTACT PROJECT ENGINEER 24 HOURS PRIOR TO PLACEMENT OF SUBGRADE MATERIALS.
a) SUBMIT TO THE GARDEN CITY ENVIRONMENTAL DIVISION THE FOLLOWING DOCUMENTATION PRIOR TO THE FINAL INSPECTION FOR A CERTIFICATE OF OCCUPANCY:
i) THE DESIGN ENGINEER'S DRAINAGE CONSTRUCTION OBSERVATION REPORTS.
ii) A SIGNED, WRITTEN STATEMENT FROM THE DESIGN ENGINEER THAT ALL DRAINAGE STRUCTURES AND APPURTENANCES WERE CONSTRUCTED IN ACCORDANCE TO THE APPROVED PLANS.
5. THE DRAINAGE SYSTEM AND ANY FILTER FABRIC SHALL NOT BE COVERED PRIOR TO INSPECTION. CALL THE INSPECTION HOT LINE AT 472-2920.
6. THE SIZE AND LOCATION OF THE DRAINAGE SYSTEM SHALL CORRESPOND WITH THE APPROVED DRAINAGE SYSTEM PLAN AND SHALL BE INSPECTED.
7. FINAL INSPECTION OF THE STORM DRAINAGE SYSTEM SHALL BE CONDUCTED FOLLOWING THE PAVING AND FINAL LANDSCAPING.
8. ALL DRAINAGE CONVEYANCE ACCESS POINTS SHALL BE STENCILED OR MARKED WITH IDENTIFYING STATEMENT FOR THE PUBLIC "DO NOT DUMP - SYSTEM DRAINS TO GROUNDWATER" OR "RIVER", WHICHEVER IS RELEVANT TO THE SYSTEM DISPOSAL DESIGN.
9. TRAFFIC RATED MANHOLE LIDS SHALL BE USED.
10. ALL PARKING LOT GRADES SHALL BE AT LEAST 1% FOR ASPHALTIC-CONCRETE AND 0.4% FOR CONCRETE.

Potable Water Construction Notes

- 1. ALL WATER MAINS SHALL BE POLYVINYL CHLORIDE (PVC) CONFORMING TO THE REQUIREMENTS OF AWWA C-900, CLASS 235, DR-18. ALL FITTINGS SHALL BE MECHANICAL JOINT OR FLANGED DUCTILE IRON CONFORMING TO THE REQUIREMENTS OF AWWA C-110. ALL PLASTIC PIPE SHALL BE INSTALLED WITH A #12 DIRECT BURIAL TRACER WIRE PLACED ALONG THE NORTH AND EAST SIDE OF THE MAIN. THE TRACER WIRE WILL NOT BE EXTENDED UP IN TO OR ALONG VALVE BOXES, BUT SHALL CONTINUE ALONG THE MAINLINE, UNINTERRUPTED. MINIMUM BURIAL DEPTHS FOR WATER MAINS SHALL BE 4 FEET FROM FINISH GRADE TO THE TOP OF THE PIPE.
2. INDIVIDUAL WATER SERVICE CONNECTIONS SHALL BE POLYETHYLENE PIPE CONFORMING TO AWWA C-901, CLASS 200, DR-7.3. SERVICES SHALL BE CONSTRUCTED PER DETAIL 2, SHEET 7, AND THE LID SHALL CONTAIN A "TOUCH READ" HOLE, THE CAN LID SHALL BE A D&L FOUNDRY B5020 FOR NON-TRAFFIC AREAS OR A D&L FOUNDRY B6018 FOR TRAFFIC AREAS. SERVICE PIPELINES FROM THE MAIN TO THE METER SETTER SHALL BE A MINIMUM 1.5-INCH, UNLESS OTHERWISE NOTED, WITH MINIMUM 3/4-INCH METER SETTERS.
3. WATER VALVES SHALL BE RESILIENT-SEAT GATE VALVES CONFORMING TO AWWA C-509 OR AWWA C-515. ALL WATER VALVES SHALL BE INSTALLED WITH A STANDARD 5-1/4 INCH DIAMETER, TWO PIECE ADJUSTABLE CAST IRON VALVE BOX, TYLER/UNION SERIES 6855, OR EQUAL. THE CAST IRON COVER SHALL BE MARKED WITH THE WORD "WATER" AS AN INTEGRAL PART OF THE COVER.
4. FIRE HYDRANTS SHALL CONFORM TO AWWA C-502 AND ISPMC DRAWING SD-404. THE PUMPER NOZZLE OUTLET SHALL BE EQUIPPED WITH A "STORZ" ADAPTER.
5. ALL WATER MAINS AND SERVICES SHALL BE BEDDED PER THE REQUIREMENTS OF TYPE I BEDDING, EXCEPT THAT BEDDING MATERIAL SHALL BE SELECT 3/4-INCH MAXIMUM CRUSHED GRAVEL CHIPS FOR WATER MAINS AND 3/8-INCH MAXIMUM CRUSHED GRAVEL CHIPS FOR SERVICE LINES. ALL BEDDING SHALL BE THOROUGHLY SHOVEL-SLICED UNDER THE PIPE.
6. ALL INSTALLED WATER LINES SHALL BE TESTED FOR LEAKAGE IN ACCORDANCE WITH SECTION 401.3.6 OF THE ISPMC FOLLOWING INSTALLATION OF ALL UTILITIES AND PRIOR TO PAVING. EACH METER SETTER SHALL BE OPENED TO BE SURE THAT THE SERVICE CORPORATION STOP IS OPEN AND THE SERVICE IS FUNCTIONAL PRIOR TO PAVING. A REPRESENTATIVE OF THE CITY MUST BE PRESENT MUST OBSERVE THE TESTING. ALL INSTALLED WATER LINES SHALL BE FLUSHED, DISINFECTED AND TESTED FOR BACTERIA IN ACCORDANCE WITH SECTION 401.3.9 OF THE ISPMC. THE WATER SYSTEM SHALL NOT BE OPENED TO THE CITY SYSTEM UNTIL THE CITY ISSUES AN INITIAL ACCEPTANCE OF THE SYSTEM.
7. THE CONTRACTOR SHALL GUARANTEE ALL WORK FOR A PERIOD OF AT LEAST A ONE-YEAR FOLLOWING THE CITY'S INITIAL ACCEPTANCE.

Sanitary Sewer Construction Notes

- 1. ALL SEWER PIPE AND FITTINGS WITH COVER GREATER THAN 3 FEET, SHALL BE POLYVINYL CHLORIDE (PVC) CONFORMING TO THE REQUIREMENTS OF ASTM D-3034, SDR-35 FOR SIZES 4-INCH THROUGH 15-INCH; ASTM F-679, SDR-35, T-1 WALL FOR SIZES 18-INCH THROUGH 27-INCH; OR ASTM F-794, T-46 FOR SIZES 18-INCH THROUGH 36-INCH. THE MINIMUM COVER FOR ALL PVC SEWER LINES SHALL BE 3 FEET. SEWER PIPE AND FITTINGS WITH COVER LESS THAN 3 FEET SHALL BE DUCTILE IRON (DI) CONFORMING TO ANSI A-21.51 OR AWWA C-151, MINIMUM CLASS 50.
2. SANITARY SEWER MANHOLES SHALL BE CONSTRUCTED OF REINFORCED PRECAST CONCRETE PER THE ISPMC WITH A MAXIMUM OF 12 INCHES OF CONCRETE GRADE RINGS, A 24-INCH DIAMETER CAST IRON RING AND COVER AND A CONCRETE COLLAR PER ISPMC DRAWINGS SD-501, SD-505, SD-507, SD-508, SD-509. MANHOLES SHALL NOT HAVE STEPS. THE SEWER CONTRACTOR SHALL FIELD VERIFY THAT NO MORE THAN 12-INCHES OF GRADE RINGS ARE NECESSARY TO ADJUST THE MANHOLE TO FINAL GRADE. GRADE RINGS, RING AND COVERS SHALL BE PROVIDED BY THE SEWER CONTRACTOR. MANHOLE CONES SHALL BE ECCENTRIC FOR ALL MANHOLES 4 FEET AND DEEPER. THE VERTICAL WALL OF THE CONE SHALL BE PLACED UPSTREAM AND ROTATED 45°. CONCENTRIC CONES SHALL BE USED FOR MANHOLES LESS THAN 4 FEET DEEP.
3. MANUFACTURED COMPRESSION BOOTS SHALL BE USED IN MANHOLES WHERE PIPELINES ENTER AND LEAVE THE MANHOLE.
4. SEWER SERVICE LINES SHALL BE ISPMC TYPE "A" OR "B" AND CONSTRUCTED AND MARKED PER ISPMC DRAWING SD-511A. SERVICES SHALL NOT BE DEEPER THAN 5 FEET AT THE PROPERTY LINE, UNLESS SPECIFICALLY APPROVED BY THE CITY. SERVICES SHALL EXTEND HORIZONTALLY 10 FEET BEYOND THE PROPERTY LINE. SERVICE LINES SHALL INCLUDE AN INSPECTION CLEANOUT PLACED DIRECTLY ADJACENT TO AND INSIDE PUBLIC STREET RIGHT-OF-WAY OR THE SEWER EASEMENT LINE. THE CLEANOUT SHALL CONFORM TO SD-506A & SD-506B (BOLT DOWN COVER OPTION) WITH THE RISER BEING THE SAME SIZE AS THE SERVICE LINE.
5. ALL SEWER MAINS AND SERVICES SHALL BE BEDDED PER THE REQUIREMENTS OF TYPE I BEDDING, EXCEPT THAT BEDDING MATERIAL SHALL BE SELECT 3/4-INCH MAXIMUM CRUSHED GRAVEL CHIPS. ALL BEDDING SHALL BE THOROUGHLY SHOVEL-SLICED UNDER THE PIPE.
6. GROUNDWATER LEVELS SHALL BE MAINTAINED BELOW THE TRENCH BOTTOM AT ALL TIMES DURING CONSTRUCTION. GROUNDWATER SHALL NOT BE PERMITTED TO ENTER THE PIPELINE SYSTEM DURING CONSTRUCTION. AS SOON AS POSSIBLE THE CONTRACTOR SHALL INSTALL A REMOVABLE WATER TIGHT PLUG IN THE NEW PIPELINE AT THE POINT OF CONNECTION TO THE EXISTING SEWER SYSTEM.
7. SEWERS SHALL BE CLEANED AND TESTED AFTER ALL UTILITIES ARE INSTALLED AND PRIOR TO PAVING. MATERIAL CLEANED FROM THE CONSTRUCTION SHALL NOT BE PERMITTED TO DISCHARGE TO THE DOWNSTREAM RECEIVING PIPELINE. ALL INSTALLED SEWER PIPES SHALL BE TESTED IN ACCORDANCE WITH DIVISION 500 OF THE ISPMC. A REPRESENTATIVE OF THE CITY MUST BE PRESENT MUST OBSERVE THE TESTING. MAINLINE PIPELINE TESTING SHALL INCLUDE AIR PRESSURE, DEFLECTION AND CLOSED CIRCUIT TELEVISION (CCTV) VISUAL INSPECTION. SERVICE LINE TESTING SHALL INCLUDE AIR PRESSURE AND CLOSED CIRCUIT TELEVISION (CCTV). THE CCTV REPORT SHALL BE IN THE FORM OF A VHS VIDEOTAPE OR DVD AND A WRITTEN LOG. MANHOLES SHALL BE VACUUM OR HYDROSTATICALLY TESTED FOR LEAKAGE. THE SEWER SYSTEM SHALL NOT ACCEPT ANY FLOWS UNTIL THE CITY ISSUES AN INITIAL ACCEPTANCE OF THE SYSTEM.
8. THE CONTRACTOR SHALL GUARANTEE ALL WORK FOR A PERIOD OF AT LEAST A ONE-YEAR FOLLOWING THE CITY'S INITIAL ACCEPTANCE.

Erosion Control - Storm Water Pollution Prevention Note

COMPLIANCE WITH THE ENVIRONMENTAL PROTECTION AGENCY (EPA) REQUIREMENTS FOR PROTECTION FROM EROSION BY STORM WATER IS REQUIRED FOR THIS PROJECT. A RESPONSIBLE PARTY (RP) SHALL BE RESPONSIBLE TO COMPLY WITH THE EPA REQUIREMENTS. IF THE OWNER HAS NOT DESIGNATED A RP, THE CONTRACTOR SHALL BE REQUIRED TO PROVIDE A RP. THE RP IS REQUIRED TO PREPARE, FILE AND COMPLY WITH THE STORM WATER POLLUTION PREVENTION PLAN (SWPPP) FOR THIS PROJECT. THE RP IS RESPONSIBLE TO FILE A NOTICE OF INTENT (NOI) TO CONSTRUCT WITH EPA. EPA MUST OFFICIALLY ACCEPT THE NOI PRIOR TO BEGINNING ANY SITE DISTURBANCE ACTIVITIES. THE SWPPP IS A DOCUMENT/PLAN THAT IS REQUIRED TO BE UPDATED AND AMENDED TO BEST FIT THE SITE AS CONSTRUCTION OCCURS. THE RP IS RESPONSIBLE TO KEEP THE PLAN CURRENT. AT COMPLETION OF ALL CONSTRUCTION ACTIVITIES AND AFTER THE PROJECT SITE IS STABILIZED FOR EROSION CONTROL, THE RP IS REQUIRED TO PREPARE AND SUBMIT A NOTICE OF TERMINATION OF THE SWPPP WITH EPA.

Sheet Index

- 1 TITLE SHEET AND NOTES
1.1 FINAL PLAT
1.2 FINAL PLAT NOTES AND TABLES
2 SITE COMPOSITE AND GRADING PLAN
3 PLAN/PROFILE - NORTH PROSPECT LANE (PRIVATE DRIVE)
4 PLAN/PROFILE - NORTH PROSPECT LANE (PRIVATE DRIVE)
5 PATHWAYS PLAN
6 CONSTRUCTION DETAILS
7 CONSTRUCTION DETAILS

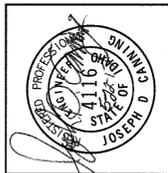
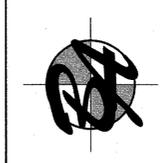
Benchmark Information

- PBM #1 FOUND 1/2" PIN AT THE NORTHEASTERLY BOUNDARY CORNER. ELEVATION=2665.60
PBM #2 FOUND 5/8" PIN IN THE CENTERLINE OF N. PROSPECT WAY. ELEVATION=2670.22

Revisions

Table with 3 columns: REV., DESC., DATE/BY. Row 1: A, GARDEN CITY COMMENTS DATED FEBRUARY 19, 2017, 3-23-17 KMK. Row 2: B, PER GARDEN CITY COMMENTS DATED APRIL 13, 2017 5/22/17 DAC.

B & A Engineers, Inc.
Consulting Engineers, Surveyors & Planners
5505 W. Franklin Rd. Boise, Id. 83705
(208) 343-3381



Bridge Townhomes Subdivision
A RESUBDIVISION OF LOTS 2 AND 3, BLOCK 1 OF WATERFRONT DISTRICT SUBDIVISION SITUATE IN THE EAST HALF OF SECTION 35, TOWNSHIP 3 NORTH, RANGE 2 EAST, BOISE MERIDIAN, GARDEN CITY, ADA COUNTY, IDAHO.

Title Sheet / Notes

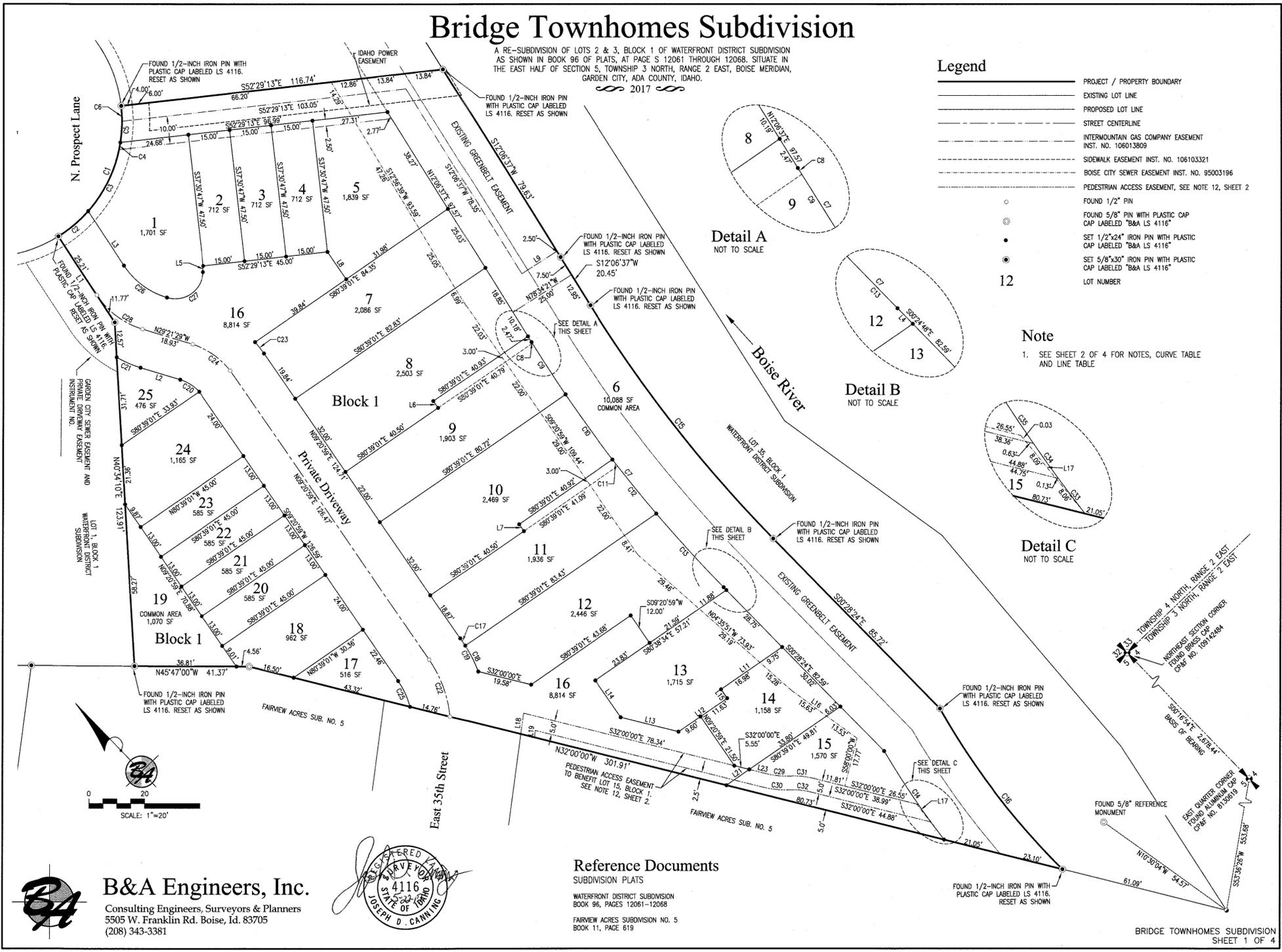
Table with 2 columns: FIELD, VALUE. Fields include DATE (JANUARY 4, 2017), HORIZ. SCALE (AS NOTED), VERT. SCALE (AS NOTED), DRAWN BY (DAC/KMK), CHECKED BY (J.D. CANNING), FILE (N008-A-Const Plans.dwg).

SHEET NO: 1

# Bridge Townhomes Subdivision

A RE-SUBDIVISION OF LOTS 2 & 3, BLOCK 1 OF WATERFRONT DISTRICT SUBDIVISION AS SHOWN IN BOOK 96 OF PLATS, AT PAGE S 12061 THROUGH 12068. SITUATE IN THE EAST HALF OF SECTION 5, TOWNSHIP 3 NORTH, RANGE 2 EAST, BOISE MERIDIAN, GARDEN CITY, ADA COUNTY, IDAHO.

2017



## Legend

- PROJECT / PROPERTY BOUNDARY
- EXISTING LOT LINE
- PROPOSED LOT LINE
- STREET CENTERLINE
- - - INTERMOUNTAIN GAS COMPANY EASEMENT INST. NO. 106013809
- - - SIDEWALK EASEMENT INST. NO. 106103321
- - - BOISE CITY SEWER EASEMENT INST. NO. 95003196
- - - PEDESTRIAN ACCESS EASEMENT, SEE NOTE 12, SHEET 2
- FOUND 1/2" PIN
- FOUND 5/8" PIN WITH PLASTIC CAP CAP LABELED "B&A LS 4116"
- SET 1/2"x24" IRON PIN WITH PLASTIC CAP LABELED "B&A LS 4116"
- SET 5/8"x30" IRON PIN WITH PLASTIC CAP LABELED "B&A LS 4116"
- LOT NUMBER

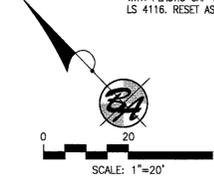
## Note

1. SEE SHEET 2 OF 4 FOR NOTES, CURVE TABLE AND LINE TABLE

Detail A  
NOT TO SCALE

Detail B  
NOT TO SCALE

Detail C  
NOT TO SCALE



**B&A Engineers, Inc.**  
Consulting Engineers, Surveyors & Planners  
5505 W. Franklin Rd. Boise, Id. 83705  
(208) 343-3381



## Reference Documents

- SUBDIVISION PLATS
- WATERFRONT DISTRICT SUBDIVISION BOOK 96, PAGES 12061-12068
- FAIRVIEW ACRES SUBDIVISION NO. 5 BOOK 11, PAGE 619

**B&A Engineers, Inc.**  
Consulting Engineers, Surveyors & Planners  
5505 W. Franklin Rd. Boise, Id. 83705  
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**Bridge Townhomes Subdivision**  
A RESUBDIVISION OF LOTS 2 AND 3, BLOCK 1 OF WATERFRONT DISTRICT SUBDIVISION, SITUATE IN THE EAST HALF OF SECTION 5, TOWNSHIP 3 NORTH, RANGE 2 EAST, BOISE MERIDIAN, GARDEN CITY, ADA COUNTY, IDAHO.

**Final Plat**

DATE:	JANUARY 4, 2017
HORIZ. SCALE:	AS NOTED
VERT. SCALE:	AS NOTED
DRAWN BY:	DAC/KMK
CHECKED BY:	J.D. CANNING
FILE:	NJ06-A Const Plans.dwg

SHEET NO.:  
**1.1**

Revisions		
REV.	DESC.	DATE/BY
A	GARDEN CITY COMMENTS DATED FEBRUARY 19, 2017	3-23-17 KMK
B	PER GARDEN CITY COMMENTS DATED APRIL 13, 2017 5/22/17 DAC	

# Bridge Townhomes Subdivision

CURVE TABLE					
Curve No.	Length	Radius	Delta	Chord Dir.	Chord Len.
C1	55.01'	49.00'	64°19'09"	N69°40'23"E	52.16'
C2	14.16'	49.00'	16°33'16"	S86°26'41"E	14.11'
C3	25.08'	49.00'	29°19'26"	N70°36'58"E	24.81'
C4	2.61'	49.00'	3°03'21"	N54°25'35"E	2.61'
C5	7.65'	49.00'	8°56'25"	N48°25'42"E	7.64'
C6	5.51'	49.00'	6°26'41"	N40°44'08"E	5.51'
C7	112.56'	512.50'	12°35'00"	S5°49'06"W	112.33'
C8	0.53'	511.40'	0°03'35"	S12°04'59"W	0.53'
C9	22.01'	511.40'	2°27'57"	S10°49'13"W	22.01'
C10	29.01'	512.50'	3°14'37"	S7°58'06"W	29.01'
C11	3.00'	512.50'	0°20'09"	S6°10'43"W	3.00'
C12	22.07'	512.50'	2°28'03"	S4°46'37"W	22.07'
C13	35.93'	512.50'	4°00'59"	S1°32'06"W	35.92'
C14	38.58'	297.50'	7°25'49"	S9°47'12"W	38.55'
C15	107.07'	487.50'	12°35'00"	S5°49'06"W	106.85'
C16	73.19'	272.50'	15°23'20"	S6°26'15"W	72.97'
C17	3.14'	57.00'	3°09'14"	N10°55'36"E	3.14'
C18	13.56'	57.00'	13°38'04"	S16°10'01"W	13.53'
C19	13.56'	57.00'	13°38'04"	N16°10'01"E	13.53'
C20	8.24'	15.00'	31°29'18"	N13°36'49"W	8.14'
C21	9.38'	40.00'	13°26'01"	S22°38'28"E	9.36'
C22	22.08'	43.50'	29°05'05"	N23°53'31"E	21.85'
C23	5.17'	42.00'	7°03'13"	N5°49'22"E	5.17'
C24	16.83'	28.55'	33°46'01"	N11°05'03"W	16.59'
C25	10.26'	30.00'	19°35'58"	N19°08'58"E	10.21'
C26	19.74'	28.00'	40°23'55"	S9°32'23"E	19.34'
C27	18.35'	10.00'	105°08'28"	S81°17'26"E	15.88'
C28	20.95'	30.00'	40°01'03"	S9°20'57"E	20.53'
C29	8.82'	29.37'	17°12'43"	S40°20'54"E	8.79'
C30	10.31'	34.37'	17°11'33"	S40°21'29"E	10.27'
C31	8.29'	28.00'	16°57'16"	N40°28'37"W	8.26'
C32	6.81'	23.00'	16°57'16"	N40°28'37"W	6.76'
C33	7.96'	297.50'	1°32'00"	S6°50'17"W	7.96'
C34	7.72'	297.50'	1°29'15"	S8°20'55"W	7.72'
C35	22.89'	297.50'	4°24'34"	S11°17'49"W	22.89'

LINE TABLE		
Line No.	Length	Direction
L1	36.98'	N10°39'34"E
L2	14.97'	S29°21'29"E
L3	23.43'	N10°39'34"E
L5	2.23'	N46°08'20"E
L6	3.00'	N9°20'59"E
L7	3.00'	S9°20'59"W
L8	12.00'	S9°20'59"W
L9	15.00'	S78°34'21"E
L11	26.74'	S80°39'01"E
L12	21.22'	S80°39'01"E
L13	21.42'	S32°00'00"E
L14	16.17'	S9°20'59"W
L15	3.92'	N9°20'59"E
L16	29.16'	S9°55'20"E
L17	16.18'	S6°10'48"W
L18	7.55'	N51°29'57"E
L19	2.52'	N51°29'57"E
L20	3.33'	S80°39'01"E
L21	6.65'	S80°39'01"E
L22	10.57'	N32°00'00"W
L23	6.18'	S32°00'00"E
L25	5.03'	S32°00'00"E

## Notes

- THIS PROPERTY LIES WITHIN THE INCORPORATED LIMITS OF THE GARDEN CITY AND WITHIN THE THURMAN MILL, AND FAIRVIEW ACRES LATERAL WATER USERS ASSOCIATION. IRRIGATION ASSESSMENTS SHALL BE PAID BY THE LOT OWNERS.
- THIS SUBDIVISION IS SUBJECT TO A GREENBELT EASEMENT AS DISCLOSED UNDER INST. NO. 97015427, RECORDS, ADA COUNTY, IDAHO.
- ANY RESUBDIVISION OF THIS PLAT SHALL COMPLY WITH THE APPLICABLE REGULATIONS IN EFFECT AT THE TIME OF THE RESUBDIVISION.
- LOTS SHALL NOT BE REDUCED IN SIZE WITHOUT PRIOR APPROVAL FROM THE HEALTH AUTHORITY.
- NO ADDITIONAL DOMESTIC WATER SUPPLIES SHALL BE INSTALLED BEYOND THE WATER SYSTEM APPROVED IN THE SANITARY RESTRICTION RELEASE.
- BUILDING SETBACKS AND DIMENSIONAL STANDARDS IN THIS SUBDIVISION SHALL BE IN COMPLIANCE WITH THE APPLICABLE ZONING REGULATIONS OF GARDEN CITY.
- NO EASEMENT SHOWN OR DESIGNATED HEREON SHALL PRECLUDE THE CONSTRUCTION AND MAINTENANCE OF HARD-SURFACED DRIVEWAYS, LANDSCAPING, PARKING, COVERED PARKING, OR OTHER SUCH IMPROVEMENTS.
- A BLANKET INGRESS/EGRESS EASEMENT IS HEREBY RESERVED ON LOT 16, BLOCK 1. SAID INGRESS/EGRESS EASEMENT SHALL RUN WITH THE LAND AND EACH LAND OWNER WITHIN THIS SUBDIVISION HAS AN UNDIVIDED INTEREST WITHIN SAID EASEMENT. SAID LOT SHALL BE MAINTAINED BY AND FOR THE USE OF THE PROPERTY OWNERS OF THIS SUBDIVISION.
- LOT 16, BLOCK 1 AND LOT 25, BLOCK 1 ARE SUBJECT TO A BLANKET PUBLIC UTILITIES EASEMENT AND IS SUBJECT TO A BLANKET EASEMENT FOR THE INSTALLATION AND MAINTENANCE OF SANITARY SEWER AND DOMESTIC WATER MAINLINES THEIR APPURTENANCES TO BENEFIT GARDEN CITY, IDAHO.
- LOTS 16, 17, 19, 25, BLOCK 1 ARE COMMON LOTS TO BE OWNED AND MAINTAINED BY THE LOT OWNERS ASSOCIATION.
- THE PUBLIC UTILITY EASEMENTS SHOWN HEREON ARE HEREBY DEDICATED TO THE PUBLIC UTILITIES FOR THE MAINTENANCE AND INSTALLATION OF PUBLIC UTILITIES.
- THE PEDESTRIAN ACCESS EASEMENT SHOWN HEREON IS GRANTED TO LOT 15, BLOCK 1, FOR PEDESTRIAN ACCESS.



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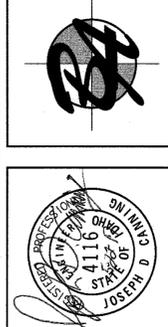
Bridge Townhomes Subdivision  
 Sheet 2 of 4

REV.	DESC.	DATE/BY
A	GARDEN CITY COMMENTS DATED FEBRUARY 19, 2017	3-23-17 KMK
B	PER GARDEN CITY COMMENTS DATED APRIL 13, 2017 5/22/17 DAC	

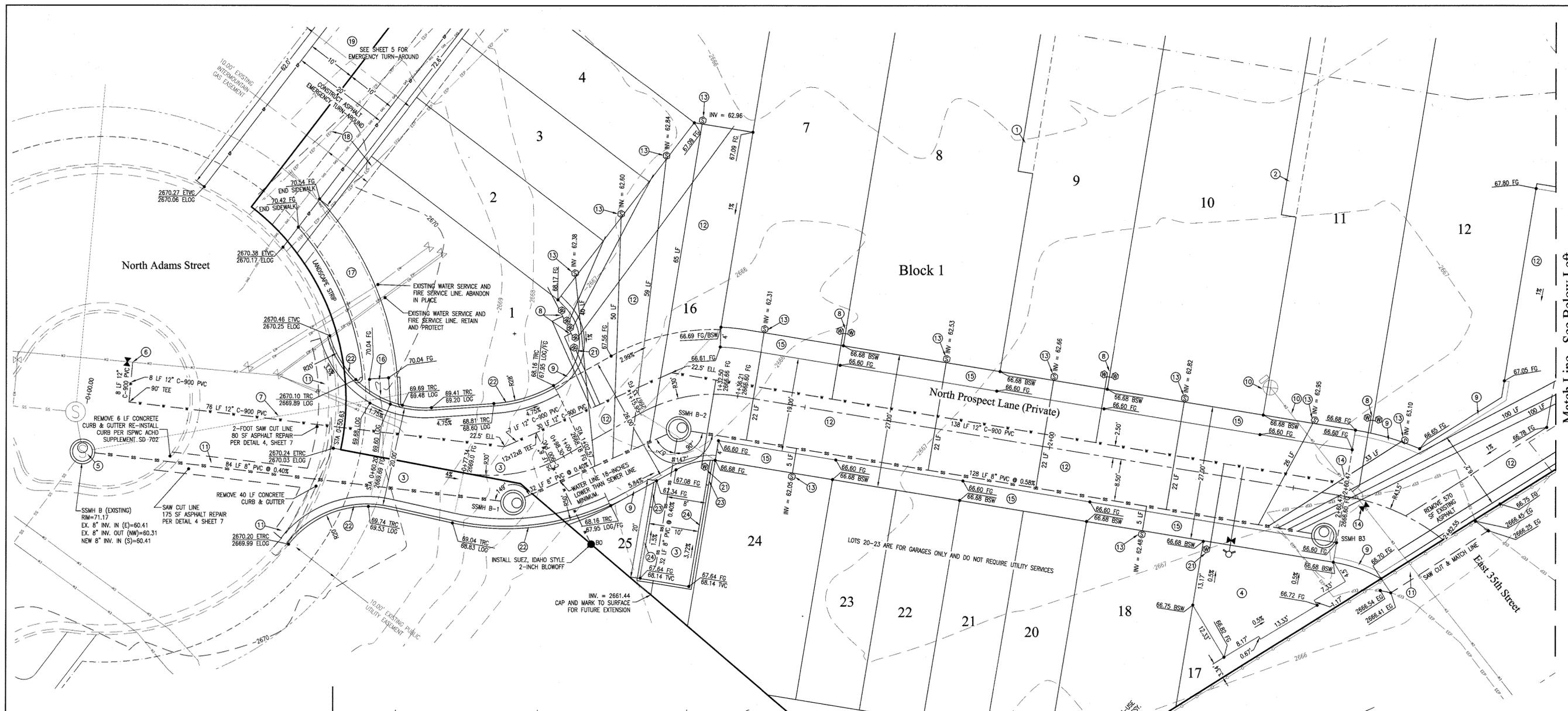
DATE:	JANUARY 4, 2017
HORIZ. SCALE:	AS NOTED
VERT. SCALE:	AS NOTED
DRAWN BY:	DAC/KMK
CHECKED BY:	J.D. CANNING
FILE:	NJ06-A Const Plans.dwg

SHEET NO.:  
**1.2**

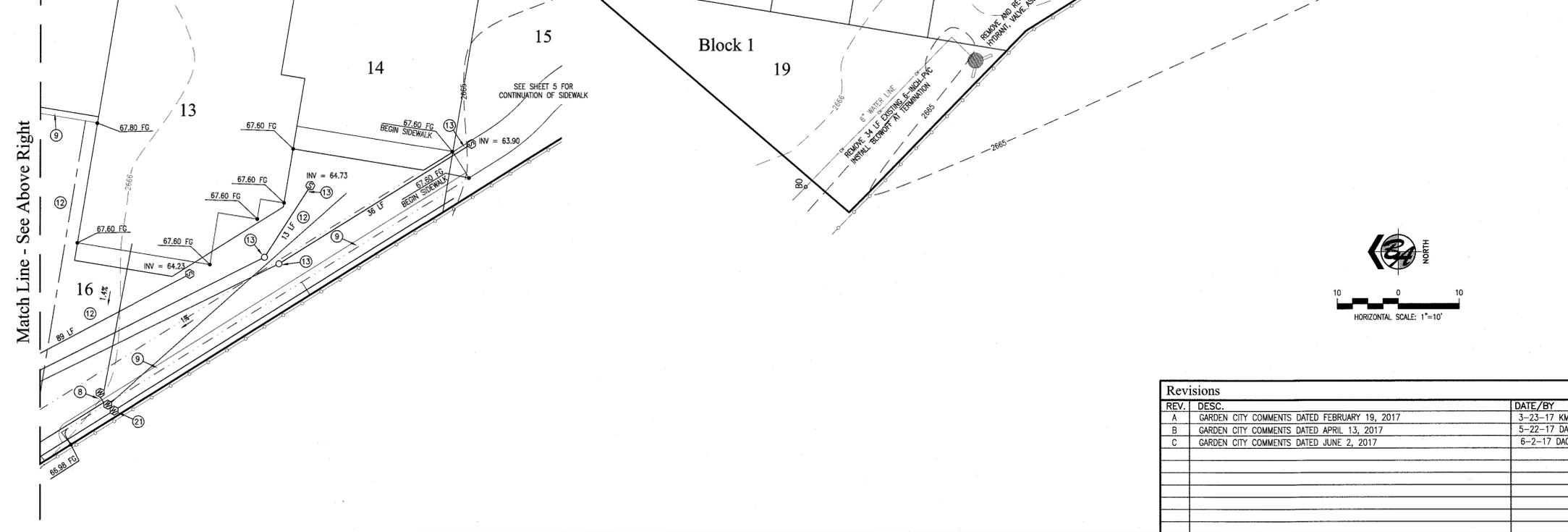
**Bridge Townhomes Subdivision**  
 A RESUBDIVISION OF LOTS 2 AND 3, BLOCK 1 OF WATERFRONT DISTRICT SUBDIVISION, SITUATE IN THE EAST HALF OF SECTION 34, TOWNSHIP 3 NORTH, RANGE 2 EAST, BOISE MERIDIAN, GARDEN CITY, ADA COUNTY, IDAHO.



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- Keynotes**
- 3-FOOT WIDE ACCESS EASEMENT ON LOT 9 IN FAVOR OF LOT 8.
  - 3-FOOT WIDE ACCESS EASEMENT ON LOT 11 IN FAVOR OF LOT 10.
  - CONSTRUCT ASPHALT DRIVE SECTION PER DETAIL 5, SHEET 6.
  - TRASH AND RECYCLING ENCLOSURE PAD. 4" CONCRETE OVER 4" 3/4-INCH MINUS COMPACTED BASE.
  - CORE DRILL EXISTING MANHOLE FOR NEW CONNECTION.
  - HOT TAP AND CONNECT NEW WATER MAIN TO EXISTING MAIN LINE. INSTALL 12" TEE AND 12" VALVE (N).
  - EXISTING SANITARY SEWER SERVICE TO BE UTILIZED BY LOT 1, BLOCK 1
  - INSTALL DOUBLE WATER METER SETTER.
  - INSTALL 1-FOOT WIDE CONCRETE RIBBON PER DETAIL 8, SHEET 6.
  - REMOVE 25± LF EXISTING 12-INCH HDPE WATER LINE AND EXISTING BLOWOFF.
  - INSTALL ASPHALT PAVEMENT PER DETAIL 4, SHEET 7.
  - INSTALL PERVIOUS CONCRETE PER DETAILS 6 AND 7, SHEET 6.
  - INSTALL TRAFFIC RATED CLEANOUT PER ISPCW SD-506A.
  - CONNECT 12-INCH C-900 PVC TO HOPE PER DETAIL 1, SHEET 7.
  - CONSTRUCT 4'-0" WIDE CONCRETE SIDEWALK IN ACCORDANCE WITH ACHD SUPPLEMENTAL STANDARD DRAWING SD-709.
  - CONSTRUCT PEDESTRIAN ACCESS RAMP. SEE DETAIL 3, SHEET 7.
  - CONSTRUCT 7'-0" WIDE CONCRETE SIDEWALK IN ACCORDANCE WITH ACHD SUPPLEMENTAL STANDARD DRAWING SD-709.
  - REMOVE 1145 S.F. OF EXISTING ASPHALT PATHWAY.
  - CONSTRUCT 2224 S.F. ASPHALT EMERGENCY ACCESS DRIVE. 2-1/2" ASPHALT OVER 10" 3/4-INCH MINUS COMPACTED BASE.
  - CONSTRUCT 700 S.F. (TOTAL AREA) ASPHALT EMERGENCY ACCESS DRIVE. 2-1/2" ASPHALT OVER 10" 3/4-INCH MINUS COMPACTED BASE.
  - INSTALL SINGLE WATER METER SETTER.
  - CONSTRUCT 3" ROLLED CURB & GUTTER. SEE DETAIL 3, SHEET 6.
  - CONSTRUCT CURB TERMINUS IN ACCORDANCE WITH I.S.P.W.C. STANDARD DRAWING SD-707.
  - CONSTRUCT 6" VERTICAL CURB (NO GUTTER) PER DETAIL 5, SHEET 7.



Match Line - See Below Left

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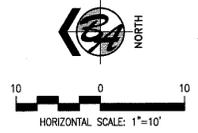
**Bridge Townhomes Subdivision**  
 A RESUBDIVISION OF LOTS 2 AND 3, BLOCK 1, OF WATERBURY DISTRICT SUBDIVISION, SITUATE IN THE EAST HALF OF SECTION 52, TOWNSHIP 14 NORTH, RANGE 2 EAST, BOISE MERIDIAN, GARDEN CITY, ADA COUNTY, IDAHO.

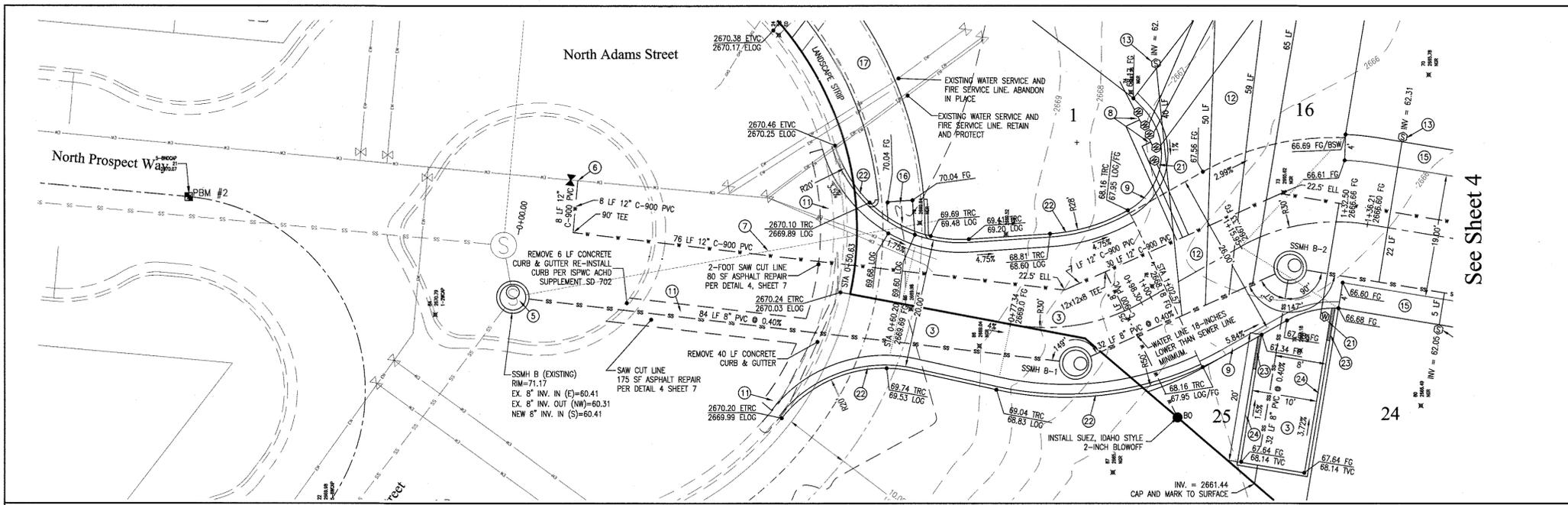
**Site Composite and Grading Plan**

DATE:	JANUARY 4, 2017
HORIZ. SCALE:	AS NOTED
VERT. SCALE:	AS NOTED
DRAWN BY:	DAC/KMK
CHECKED BY:	J.D. CANNING
FILE:	NJ06-A Const. Plans.dwg

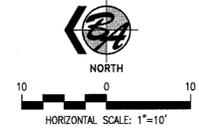
SHEET NO.: **2**

REV.	DESC.	DATE/BY
A	GARDEN CITY COMMENTS DATED FEBRUARY 19, 2017	3-23-17 KMK
B	GARDEN CITY COMMENTS DATED APRIL 13, 2017	5-22-17 DAC
C	GARDEN CITY COMMENTS DATED JUNE 2, 2017	6-2-17 DAC





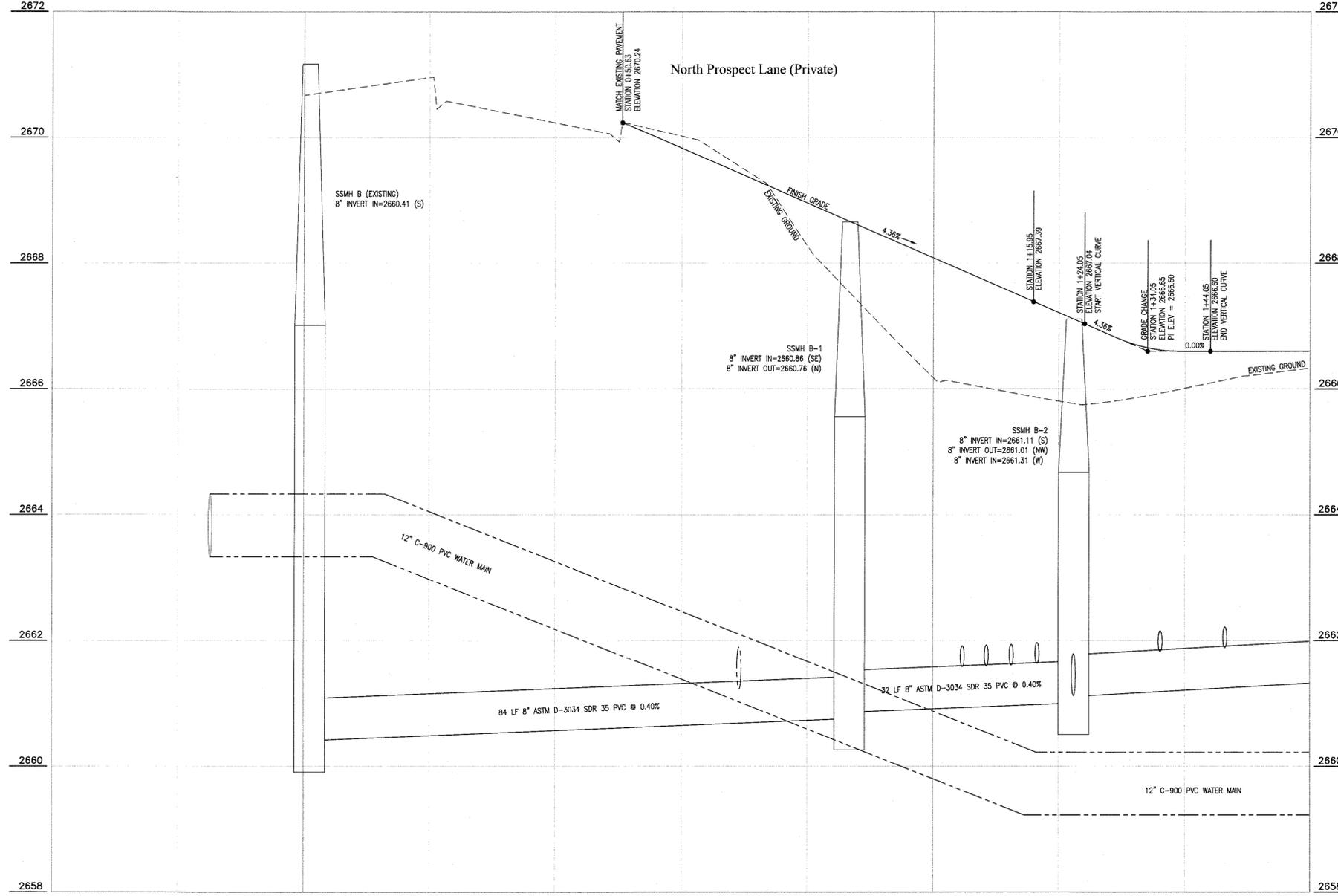
See Sheet 4



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**Bridge Townhomes  
 Subdivision**  
 A RESUBDIVISION OF LOTS 2 AND 3, BLOCK 1 OF WATERFRONT DISTRICT  
 SUBDIVISION, SITUATE IN THE EAST HALF OF SECTION 5, TOWNSHIP 3 NORTH,  
 RANGE 2 EAST, BOISE, MERIDIAN, GARDEN CITY, ADA COUNTY, IDAHO.



**Keynotes**

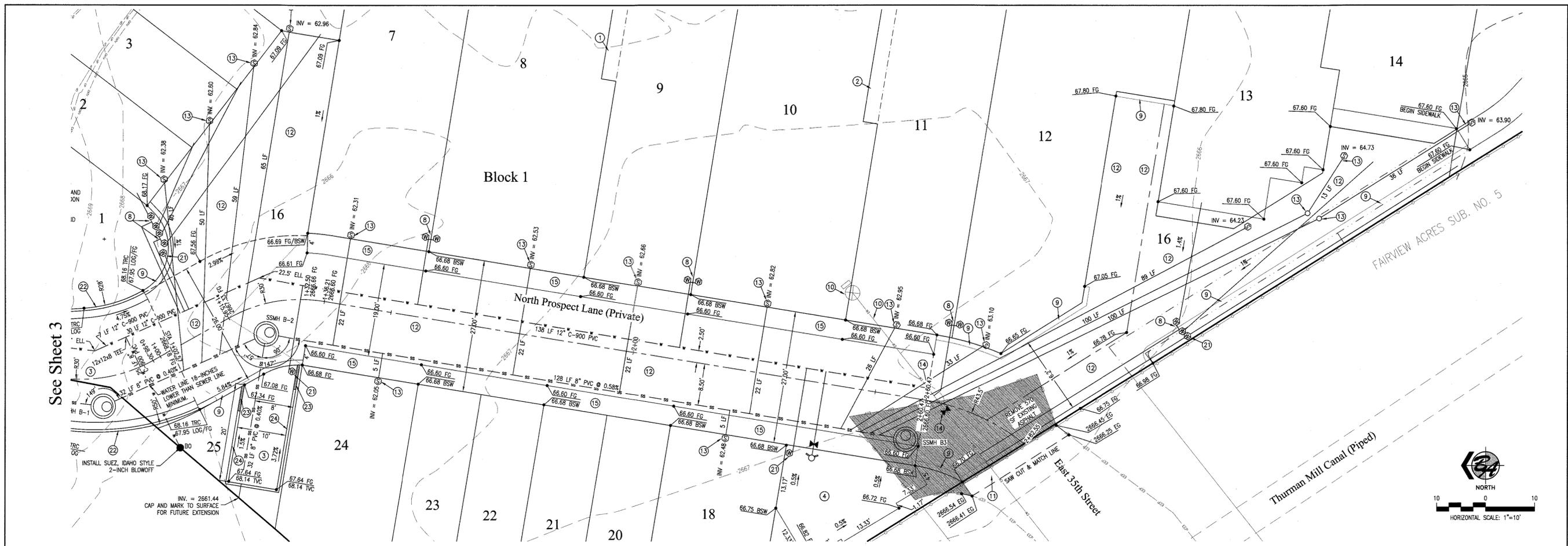
1. 3-FOOT WIDE ACCESS EASEMENT ON LOT 9 IN FAVOR OF LOT 8.
2. 3-FOOT WIDE ACCESS EASEMENT ON LOT 11 IN FAVOR OF LOT 10.
3. CONSTRUCT ASPHALT DRIVE SECTION PER DETAIL 5, SHEET 6.
4. TRASH AND RECYCLING ENCLOSURE PAD. 4" CONCRETE OVER 4" 3/4-INCH MINUS COMPACTED BASE.
5. CORE DRILL EXISTING MANHOLE FOR NEW CONNECTION.
6. HOT TAP AND CONNECT NEW WATER MAIN TO EXISTING MAIN LINE. INSTALL 12" TEE AND 12" VALVE (N).
7. EXISTING SANITARY SEWER SERVICE TO BE UTILIZED BY LOT 1, BLOCK 1
8. INSTALL DOUBLE WATER METER SETTER.
9. INSTALL 1-FOOT WIDE CONCRETE RIBBON PER DETAIL 8, SHEET 6.
10. REMOVE 25± LF EXISTING 12-INCH HDPE WATER LINE AND EXISTING BLOWOFF.
11. INSTALL ASPHALT PAVEMENT PER DETAIL 4, SHEET 7.
12. INSTALL PERVIOUS CONCRETE PER DETAILS 6 AND 7, SHEET 6.
13. INSTALL TRAFFIC RATED CLEANOUT PER ISPWIC SD-506A.
14. CONNECT 12-INCH C-900 PVC TO HDPE PER DETAIL 1, SHEET 7.
15. CONSTRUCT 4'-0" WIDE CONCRETE SIDEWALK IN ACCORDANCE WITH ACHD SUPPLEMENTAL STANDARD DRAWING SD-709.
16. CONSTRUCT PEDESTRIAN ACCESS RAMP. SEE DETAIL 3, SHEET 7.
17. CONSTRUCT 7'-0" WIDE CONCRETE SIDEWALK IN ACCORDANCE WITH ACHD SUPPLEMENTAL STANDARD DRAWING SD-709.
18. REMOVE 1145 S.F. OF EXISTING ASPHALT PATHWAY.
19. CONSTRUCT 2224 S.F. ASPHALT EMERGENCY ACCESS DRIVE. 2-1/2" ASPHALT OVER 10" 3/4-INCH MINUS COMPACTED BASE.
20. CONSTRUCT 700 S.F. (TOTAL AREA) ASPHALT EMERGENCY ACCESS DRIVE. 2-1/2" ASPHALT OVER 10" 3/4-INCH MINUS COMPACTED BASE.
21. INSTALL SINGLE WATER METER SETTER.
22. CONSTRUCT 3" ROLLED CURB & GUTTER. SEE DETAIL 3, SHEET 6.
23. CONSTRUCT CURB TERMINUS IN ACCORDANCE WITH I.S.P.W.C. STANDARD DRAWING SD-707.
24. CONSTRUCT 6" VERTICAL CURB (NO GUTTER) PER DETAIL 5, SHEET 7.

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C	GARDEN CITY COMMENTS DATED JUNE 2, 2017	6-2-17 DAC

**Plan/Profile  
 N. Prospect Lane.**

DATE:	JANUARY 4, 2017
HORIZ. SCALE:	AS NOTED
VERT. SCALE:	AS NOTED
DRAWN BY:	DAC/KMK
CHECKED BY:	J.D. CANNING
FILE:	NJ06-A Const Plans.dwg

SHEET NO:  
**3**



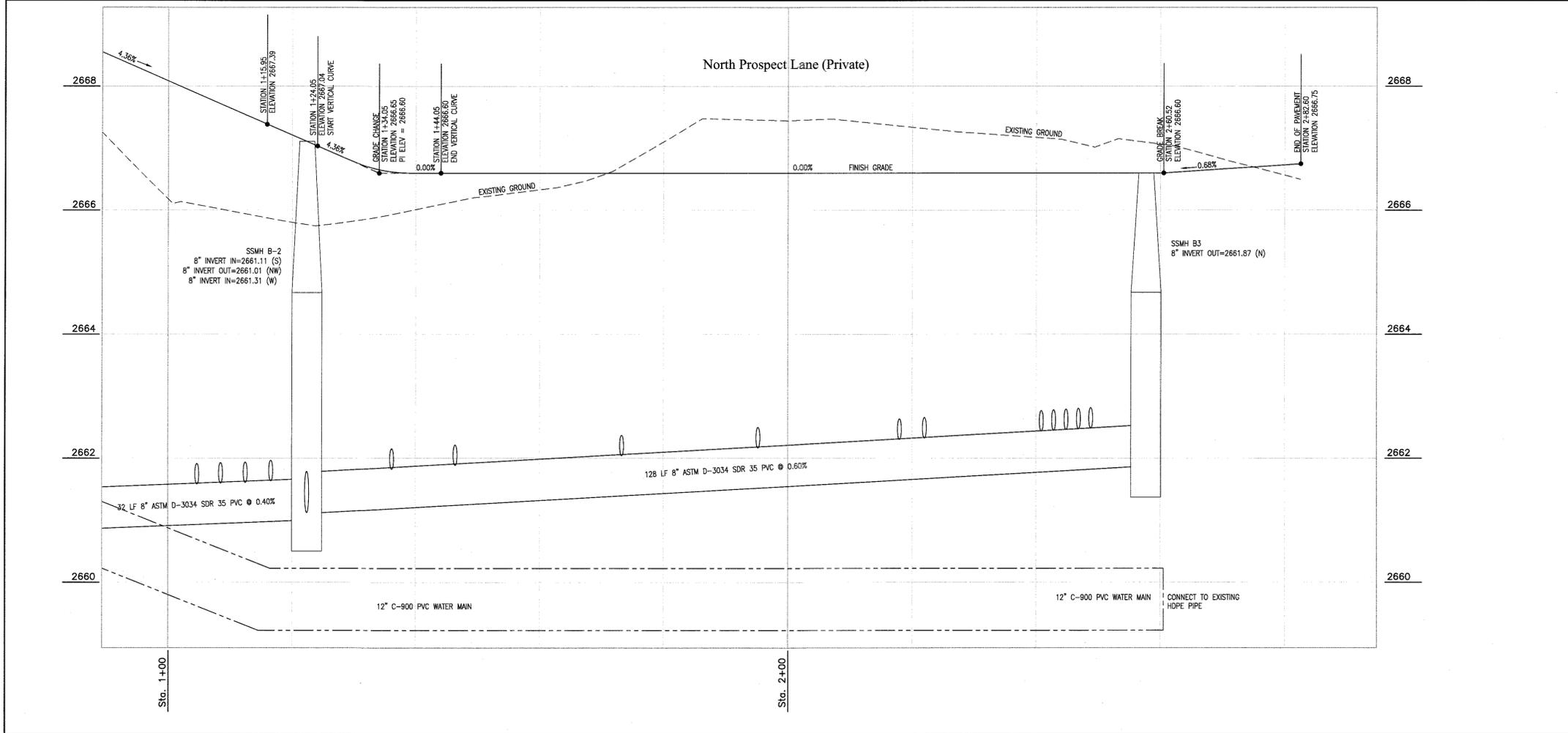
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**Bridge Townhomes Subdivision**

A RESUBDIVISION OF LOTS 2 AND 3, BLOCK 1 OF WATERFRONT DISTRICT SUBDIVISION, PLAT IN THE EAST HALF OF SECTION 5, TOWNSHIP 3 NORTH, RANGE 2 EAST, BOISE MERIDIAN, GARDEN CITY, ADA COUNTY, IDAHO.

**Plan/Profile N. Prospect Lane.**



**Keynotes**

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**Revisions**

REV.	DESC.	DATE/BY
A	GARDEN CITY COMMENTS DATED FEBRUARY 19, 2017	3-23-17 KMK
B	GARDEN CITY COMMENTS DATED APRIL 13, 2017	5-22-17 DAC
C	GARDEN CITY COMMENTS DATED JUNE 2, 2017	6-2-17 DAC

**DATE:** JANUARY 4, 2017  
**HORIZ. SCALE:** AS NOTED  
**VERT. SCALE:** AS NOTED  
**DRAWN BY:** DAC/KMK  
**CHECKED BY:** J.D. CANNING  
**FILE:** N106-A Const Plans.dwg

**SHEET NO.:** 4







**8-6A-2 DUTIES AND AUTHORITY:**

A. Council: The council shall have the authority to set policy and legislation affecting land use and the administration of this title, including establishing application fees by resolution. The council shall act on recommendations from the commission in legislative matters, some quasi-judicial applications, and serve as the final authority on appeals.

B. Planning And Zoning Commission: The planning and zoning commission shall be the designated planning agency for the city. The commission shall be responsible for final action on site specific permits and appeal body as defined by this title and for recommendations to the council on land use legislation, comprehensive plan amendments, and other policy matters.

1. Duties of the commission regarding implementation of this title shall be as follows:

- a. Provide for citizen meetings, hearings, surveys, or other methods to obtain advice on the planning process, comprehensive plan, and implementation;
- b. Promote a public interest in and understanding of the commission's activities;
- c. Make recommendations to the council concerning the comprehensive plan, planning process, or implementation of the comprehensive plan;
- d. Initiate proposed amendments to this title and conduct a biannual review of the complete development code;
- e. Conduct public hearings, make decisions and recommendations to the council based on the required findings and standards for applications as set forth in article B, "Specific Provisions", of this chapter; and
- f. Serve as the review authority in appeals of decisions of the planning official.

The commission may, at its discretion, delegate some of its functions to the commission chair, a commission subcommittee, or to the planning official.

2. Membership Requirements Of The Planning And Zoning Commission:

- a. The council in creating a commission shall provide that the geographical area and interests of the city are broadly represented on the commission.
- b. The commission membership shall consist of five (5) voting members, all appointed by the mayor and confirmed by majority vote of the council.
- c. An appointed member of the commission must have resided in the city for two (2) years immediately preceding his/her appointment, and must remain a resident of the city during the service on the commission.
- d. One (1) commission seat may be filled by a city property owner or city business owner. The member must have owned property in the city or must have operated a business in the city for two (2) years immediately preceding his/her appointment, and must remain a property or business owner in the city during the service on the commission.
- e. Members shall be selected without respect to political affiliation.
- f. Commission members shall not be entitled to any compensation.

3. Term Of Office For Planning And Zoning Commission Members:

- a. Members of the commission shall serve a term of three (3) years.
- b. No person shall serve more than two (2) full consecutive terms without a majority vote by the city council.
- c. Vacancies occurring otherwise than through the expiration of terms shall be filled in the same manner as the original appointment.
- d. Members may be removed for cause by a majority vote of the council.

4. Organization Of The Planning And Zoning Commission:

- a. The commission shall elect a chairman on an annual basis.
- b. The commission may establish subcommittees, advisory committees, or neighborhood groups to advise and assist in carrying out their responsibilities. The commission may appoint nonvoting ex officio advisors as may be deemed necessary.
- c. Written bylaws consistent with this title and other laws of the state for the transaction of business of the commission shall be adopted.
- d. A record of meetings, hearings, resolutions, studies, findings, permits and actions taken shall be maintained. All meetings and records shall be open to the public.
- e. At least one (1) regular meeting shall be held each month for not less than nine (9) months in a year.
- f. A majority of voting members of the commission shall constitute a quorum.

5. Conflict Of Interest:

- a. A member of the commission shall not participate or be present for any proceeding or action when the member or his employer, business partner, business associate or any person related to him by affinity or close relationship has an actual or potential economic interest in the procedure or action.
- b. Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered.
- c. A knowing violation of this subsection shall be a misdemeanor.
- d. The quorum of any meeting shall not be affected by a member leaving the hearing room while the matter which constitutes a conflict is being presented or heard.

C. Planning Official: The planning official shall be the administrative official for the development code. The planning official or his/her authorized staff shall administer and enforce this title and fulfill all the duties imposed by law including, but not limited to:

1. Interpret provisions in the enforcement and administration of this title;
2. Provide information to the public on planning, design, zoning, and subdivision matters;
3. Receive and examine applications including, but not limited to, the following:
  - a. With the consent of the owner, enter upon any property to make examinations and surveys;
  - b. Determine the completeness of applications in providing the required information;
  - c. Maintain records of all materials and correspondence related to land use applications;
  - d. Maintain records of the commission and council hearings and actions thereon; and
  - e. Transmit to the commission or council all applications related to this title.
4. Review and act on administrative applications;
5. Serve as the local administrator for flood hazard protection program;
6. Review and act on minor amendments to an approved permit;
7. Review compliance with conditions set forth by decision maker; and
8. Recommend action to the council on all final plats that are in substantial conformance with the conditions of the preliminary plat.

D. Design Committee:

1. Duties Of The Design Committee: The design committee shall work in partnership with applicants on design review. The committee shall act as the decision maker on design applications unless otherwise herein defined, and serve as an expert on all matters of design that come before the city.
2. Membership: The committee membership shall consist of the planning official or designee and at least three (3) community members appointed by the mayor and confirmed by a majority vote of the city council. Two (2) members shall be residents of or property owners in Garden City. Two (2) members shall be a licensed architect, landscape architect, or urban designer.
3. Term Of Office: The term of office for design committee community member shall be three (3) years, staggered among the committee members. Vacancies occurring otherwise than through the expiration of terms shall be filled in the same manner as the original appointment. Members may be removed for cause by a majority vote of the council.
4. Meetings: All meetings of the committee will be public and notice of the meetings shall be posted at city hall at least one (1) day before the meeting. A quorum shall consist of the planning official and two (2) community members. A record of meetings and actions taken shall be maintained.

E. The following Table 8-6A-1 is a summary list of the actions that the city shall take in administration of this title, the body responsible for the action, and reference to the process under which the action shall be taken:

**TABLE 8-6A-1  
AUTHORITIES AND PROCESSES**

Permit/Decision	Recommending Authority	Final Decision Maker	Process	Appeal Body
Annexation	PZ	CC	PH	
Change of use to a permitted use	None	PO	A	PZ
Comprehensive plan amendment	DC/PZ	CC	PH	
Conditional use	None	PZ	PH	CC
Conditional use, revocation	None	CC	PH	
Design review, administrative: dwelling unit, single- or two-family design; alterations under 25%	None	PO	A	DC
Design review: nonresidential structures and/or sites, and more than two attached or adjacent dwelling units	None	DC	AN	CC
Development agreement or amendment	PZ	CC	PH	
Development code amendment	DC/PZ	CC	PH	
Floodplain/floodway	None	PO	A	PZ
Manufactured/mobile home	None	PO	A	PZ
Minor land division	None	PO	AN	CC
Modifications to an approved permit	Same decision maker and process as initial approval			
Nonconforming setback extensions	None	DC	AN	CC

Planned unit development	DC/PZ	CC	PH	
Plat, boundary line amendment	None	PO	A	CC
Plat, final	PO	CC	PH	
Plat, condominium	PO	CC	A	
Plat, preliminary	DC/PZ	CC	PH	
Plat, preliminary and final combined	DC/PZ	CC	PH	
Signs	None	PO	A	DC
Signs, master plan or design review	None	DC	A	CC
Site layout template (minor PUD)	None	DC	AN	CC
Specific area plan	DC/PZ	CC	PH	
Variance	None	PZ	PH	CC
Zoning district amendment	PZ	CC	PH	

CC = Council	A = Administrative
PO = Planning Official	AN = Administrative with Public Notice
PZ = Commission	PH = Public Hearing
DC = Design Committee	

(Ord. 898-08, 9-8-2008; amd. Ord. 944-12, 5-14-2012; Ord. 975-15, 4-27-2015)

**8-6A-4 REQUIRED APPLICATION INFORMATION:**

- A. In order to be determined complete, applications for permits or decisions shall be accompanied by the information identified by an "X" in Table 8-6A-2 and described in detail in chapter 7, article B, "Description Of Application Requirements", of this title.
- B. Should the approving body determine one (1) or more required application requirements are unnecessary, the applicant may request an exemption of such requirement.
- C. Additional information to determine compliance with regulations may be required.

**TABLE 8-6A-2  
REQUIRED APPLICATION INFORMATION**

Permit/Decision	Compliance Statement	Preliminary Title Report	Neighborhood Map	Sketch Plat	Subdivision Map	Master Plan	Site Plan	Landscape Plan	Schematic Drawings	Lighting Plan	Topographic Survey	Grading Plan	Soils Report	Hydrology Report	Engineering Drawing And Specifications	Natural Hazard And Resources Analysis	Dedications And Easements	Covenants And Deed Restrictions	Will Serve Letter	Sub. Name and Reservation	Approved Addresses
Annexation		X	X			X	X				X					X	X				X
Comprehensive plan amendment	X					X					X					X					
Conditional use	X		X																X		
Design review committee	X		X				X	X	X	X	X	X							X		X
Development agreement		X																			
Development code amendment	X																				
Floodplain/way						X	X	X			X	X	X	X	X	X	X	X	X		X
Minor land division		X	X	X	X		X		X	X	X	X	X	X	X	X	X	X	X		X
Planned unit development		X	X		X	X	X	X	X		X	X		X		X	X	X	X	X	
Planned unit development, minor			X				X	X	X	X	X	X		X		X	X	X	X		X
Plat, amendment	X	X	X		X		X		X								X	X			
Plat, condominium	X						X											X			
Plat, final		X			X						X	X	X	X	X		X	X	X		X
Plat, preliminary	X	X	X		X		X		X	X						X			X	X	
Plat, preliminary and final combined		X	X		X		X		X	X	X	X	X	X	X	X	X	X	X	X	X
Site layout template							X	X	X												
Specific area plan						X															X
Variance	X		X				X														X

Zoning map amendment	X	X	X			X	X				X					X	X				
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X Denotes application information that may be waived depending on the nature of the request.

(Ord. 898-08, 9-8-2008; amd. Ord. 905-09, 3-23-2009; Ord. 975-15, 4-27-2015)

**8-6A-10 SUBSTANTIAL CONFORMANCE:**

- A. All development shall be constructed or carried out in conformance with the approval, conditions of approval, and mitigation measures adopted by the city in review of the development application.
- B. 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.
- C. Any changes that are not in substantial conformance with the approval shall be remanded to the decision making body. (Ord. 898-08, 9-8-2008; amd. Ord. 975-15, 4-27-2015)

**8-6B-7 PLANNED UNIT DEVELOPMENT:**

A. Purpose: The intent of this section is to provide for well planned developments which conform to the objectives of this title, but may deviate in certain respects from the zoning map and the district regulations. It is not the intent that the planned unit development process be used solely for the purposes of deviation from the dimensional standards in the district unless the following objectives are also achieved:

1. Provide a maximum choice of living environments by allowing a variety of housing and building types, and permitting an increased density per acre and a reduction in lot dimensions, yards, building setbacks and area requirements;
2. Create a more useful pattern of open space and recreation areas; and, if permitted as part of the project, more convenience in the location of accessory commercial uses, industrial uses and services;
3. Establish a development pattern which preserves and utilizes natural topography and geologic features, scenic vistas, trees and other vegetation and prevents the disruption of natural drainage patterns;
4. Use land more efficiently than is generally achieved through conventional development resulting in substantial savings through shorter utilities and streets; and
5. Develop a land pattern in harmony with land use density, transportation, and community facilities objectives of the comprehensive plan.

B. Applicability: The planned unit development process may be used in any district.

C. General Provisions:

1. Uses Permitted: All uses that are allowed within the land use district are permitted within a PUD. Also, up to ten percent (10%) of the gross land area may be applied to other uses that are not allowed within the land use district upon findings by the commission, as set forth in subsection E of this section.
2. Arrangement Of Uses:
  - a. Open Space: Every property developed under the PUD approach should be designed to abut upon common open space or similar areas.
  - b. Commercial: Commercial uses and buildings shall be planned as groups having common parking areas, and common ingress and egress points in order to reduce the number of potential accident locations at intersections.
  - c. Industrial: Industrial uses shall provide for an efficient use of land and services by grouping buildings in parklike surroundings, utilizing landscaping and existing trees as buffers to screen lighting, parking areas, loading areas or docks and/or outdoor storage of raw materials or products.
  - d. Residential:
    - (1) With ten (10) or more dwelling units, a variety of housing types shall be included including attached units (townhouses, duplexes), detached units (patio homes), single-family and multi-family units; provided, that the overall density limit of the district is maintained.
    - (2) A clustering of dwellings is encouraged.
    - (3) For townhouses, no more than eight (8) townhouse units shall be located in any contiguous group.
3. Minimum Size: Minimum size of a planned unit development shall be as follows:
  - a. Fourteen thousand five hundred (14,500) square feet for residential development;
  - b. One (1) acre for mixed use;
  - c. One (1) acre for commercial use; and
  - d. Five (5) acres for industrial use.
4. Setbacks: All applications which propose reduced or zero setbacks from what was set forth in section 8-2B-3, "Form Standards", of this title shall comply with the following development standards:
  - a. Lots with a reduced or zero lot line shall provide drainage easements of sufficient size to maintain drainage on the site.
  - b. The PUD plat shall indicate the reduced or zero setback lines and all easements shall be shown on the plat and incorporated into each deed transferring the title of the property.
  - c. In no case shall a property with a reduced or zero lot line be allowed adjacent to a property that is not part of the PUD.

d. The minimum separation between detached structures shall be ten feet (10') unless greater separation is required by fire or building codes.

e. All development located on a parcel with a reduced or zero lot line shall comply with all applicable building and fire codes.

5. All areas designed for future expansion or not intended for immediate improvement or development shall be landscaped or otherwise maintained in a neat and orderly manner.

D. Procedures:

1. An application for a PUD may be filed by a property owner or a person having an existing interest in the property to be included in the PUD. The PUD application shall be filed in the name or names of the recorded owner or owners of property included in the development. However, the application may be filed by the holder(s) of an equitable interest in such property.

2. A planned unit development (PUD) shall be processed as a conditional use permit with the submission of a preliminary development plan and approval of a final development plan as set forth below. A planned unit development application shall take the place of a preliminary plat application in cases where utilized for subdivision purposes.

a. In addition to the application requirements set forth in section 8-6A-4, "Required Application Information", of this chapter, the application submitted for a preliminary development plan for a PUD should contain the following:

(1) Proposed schedule for the development of the site; and

(2) Evidence that the applicant has sufficient control over the land in question to initiate the proposed development plan within two (2) years.

b. The commission shall review the preliminary development plan to determine if it is consistent with the intent and purpose of this title; whether the proposed development advances the general welfare of the community and neighborhood and the surrounding area to justify the deviation from standard district regulations.

c. The commission's approval in principle of the preliminary development plan shall be necessary before an applicant may submit a final development plan. Approval in principle shall not be construed to endorse a precise location of uses, configuration of parcels or engineering feasibility.

d. Upon approval of a preliminary development plan, an application for a final development plan may be filed.

e. The commission shall recommend to the council approval or denial of a PUD. Such action shall be in the form of written findings of fact, conclusions of law and in the case of approval, conditions of approval. Action shall occur only after the required public hearing is held.

3. When a PUD also qualifies as a subdivision, the processing of the PUD permit and subdivision application shall occur at the same time.

4. Before approval is granted to the final development plan, the entire project shall be under single ownership or control and legal title must be presented with the final development plan.

E. Required Findings:

1. In order to grant approval of a planned unit development, the commission and council shall make the findings for a conditional use permit as set forth in section 8-6B-2 of this chapter and the following:

a. The applicant has demonstrated that the proposed development can be initiated within two (2) years of the date of approval;

b. Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which would not be achieved under standard district regulations;

c. The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic and increased densities will not generate traffic in such amounts as to overload the street network outside the PUD;

d. Any proposed commercial development can be justified at the locations proposed;

e. Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan, in accordance with the PUD and the adopted policy of the council;

f. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development;

g. The PUD is in general conformance with the comprehensive plan; and

h. The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.

2. In allowing for uses not otherwise permitted in the district, the commission shall make the additional findings:

a. The uses are appropriate with the residential uses;

b. The uses are intended to principally serve the residents of the PUD;

c. The uses are planned as an integral part of the PUD;

d. The uses be located and so designed as to provide direct access to a collector or an arterial street without creating congestion or traffic hazards; and

e. A minimum of fifty percent (50%) of the residential development occurs prior to the development of the related commercial or industrial land uses. (Ord. 898-08, 9-8-2008; amd. Ord. 905-09, 3-23-2009; Ord. 975-15, 4-27-2015)

**8-6B-9 VARIANCE:**

- A. Purpose: The purpose of this section is to establish procedures for modification from the bulk and placement requirements of this title.
- B. Applicability:
1. The provisions of this section shall apply to requests to vary from the requirements of this title with respect to lot size, coverage, width, and depth; front, side, and rear setbacks; parking spaces; building height; and all other provisions of this title affecting the size and shape of a structure or the placement upon properties.
  2. A variance does not relieve an applicant from any of the procedural provisions of this title, nor does it allow establishment of a use that is not otherwise permitted in the applicable zoning district.
- C. Process: A variance shall be allowed only upon the approval of an application by the commission, subject to the requirements of this chapter, a showing of undue hardship because of unique physical characteristics of the site, and that the variance is not in conflict with the public interest.
- D. General Provisions:
1. Conditions Of Approval: Upon the granting of a variance, the commission may impose any conditions it considers necessary to assure:
    - a. That the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the applicable zoning district in which the subject property is located; and
    - b. Secure substantially the purpose of city regulations and give effect to the comprehensive plan.
  2. Conforming Variance: Any structure, building, fence, sign or use built, erected, reconstructed, used, maintained, established, existing or occupied under an approved variance as herein provided shall be deemed in conformity with the provisions of this title to the extent it complies with the provisions of said variance.
  3. Precedent Not Created: Approval of a variance shall not be considered as establishing a binding precedent to grant other variance requests.
- E. Required Findings: A variance shall be granted by the commission only if the applicant demonstrates all of the following:
1. The subject property is deprived, by provision of this title, of rights and privileges enjoyed legally by other properties in the vicinity and under the applicable zoning district because of the unique size, shape, topography or location of the subject property (a finding of undue hardship);
  2. The need for the variance is not the result of actions of the applicant or property owner;
  3. The variance will not unreasonably diminish either the health, safety or welfare of the community neighborhood;
  4. The variance is the only reasonable alternative to overcome the undue hardship; and
  5. The variance is the minimum relief necessary to allow reasonable use of the subject property. (Ord. 898-08, 9-8-2008)

BY THE COUNCIL: BEAUMONT, HIGGINS, MITCHELL, AND SOUZA

AN ORDINANCE OF THE CITY OF GARDEN CITY, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING GARDEN CITY CODE TITLE 7 (“BUILDING CODE”) TO AMEND THE FOLLOWING PROVISIONS: 7-1-6 PERMIT TIME LIMITATION AND EXPIRATION AND 7-1-7 PERMIT REACTIVATION. THIS ORDINANCE ALSO IS AMENDING GARDEN CITY CODE TITLE 8 (“DEVELOPMENT CODE”) TO AMEND THE FOLLOWING PROVISIONS: 8-2C BY ADDING SECTIONS FOR THE USES MOBILE SERVICE AND SPECIAL EVENTS ,8-2C-38 AMENDING CRITERIA RELATED TO TEMPORARY USES, 8-4A-3 FENCES AND WALLS, 8-4C-5 PROHIBITIONS [OF BUILDING MATERIALS], 8-5B-6 TERM OF [SUBDIVISION] PERMITS, 8-6A-8 EXPIRATION OF APPROVALS, 8-7A-1 DEFINITIONS OF USES.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GARDEN CITY, IDAHO:

**SECTION 1.** That Title 7, Chapter 1, Section 6 (“Permit Time Limitation and Expiration”), Garden City Code, be, and the same is hereby amended to read as follows:

A. Applications for which no permit is issued within one hundred eighty (180) days following the date of receipt of application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed. The ~~administrator of building safety services or his or her designee~~City Council may extend the time for action by the applicant for a period not exceeding one hundred eighty (180) calendar days on request by the applicant showing that circumstances beyond the control of the applicant have prevented ~~the~~ action from being taken.

B. Every permit issued shall expire and become invalid unless the work on the site authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned if no inspection has been requested for a period of one hundred eighty (180) days after the work is commenced. The ~~administrator of building safety services or his or her designee~~City Council is authorized to grant, in writing, one or more extensions of time, for periods not more than ~~ninety-sixty~~ (9060) days each. The extension shall be requested in writing and ~~justifiable-good~~ cause shall be demonstrated.

**SECTION 2.** That Title 7, Chapter 1, Section 7 (“Permit Reactivation”), Garden City Code, be, and the same is hereby amended to read as follows:

A. Any expired permit may be reactivated for an additional one hundred eighty (180) days upon the payment of a fee totaling fifty percent (50%) of the permit fee that was established at the time of issuance. All projects whose permits are expired and are under consideration for reactivation will be subject to the codes in effect at the time of reactivation and may require plan review. If a re-review is required, plan review fees equal to that specified for a new project shall be assessed. Permits that have been expired for more than thirty (30) days are not eligible to be reactivated.

**SECTION 3.** That Title 8, Chapter 2, Article C, Garden City Code, add a new Section be, and the same is hereby amended to read as follows:

8-2C-47 Mobile Service:

A. Requirements and Limitations:

1. This use is exempt from permits under this title. Exemption from permits under this title does not waive the requirement of other City licenses and permits or as otherwise required by other governmental entities.
2. The vehicle from which the business or service is operated must be legally licensed through a department of transportation.

**SECTION 4.** That Title 8, Chapter 2, Article C, Garden City Code, add a new Section, be, and the same is hereby amended to read as follows:

8-2C-48 Special Event

A. Requirements and Limitations:

1. Special Events are exempt from permits under this title. Exemption from permits under this title does not waive the requirement of other licenses and permits such as liquor or building permits.
2. A special events permit must be obtained from the City. The City may impose requirements to ensure that the health and safety of the City is not compromised.
3. Special events may be allowed for a period not to exceed three (3) days total within any ninety (90) day period.
4. Any blocking of a road will require approval from the transportation authority.
5. Activities or uses of a site that are prohibited by this title shall be prohibited.
6. Uses of a site that require a conditional use permit shall be required to obtain a conditional use permit prior to the special event.
7. All applicable licenses and permits such as vendor's or central district health licensing requirements are required.

**SECTION 5.** That Title 8, Chapter 2, Article C, Section 38 ("Temporary Uses"), Garden City Code, be, and the same is hereby amended to read as follows:

A. Set backs: Site Design

1. Temporary Uses that are seeking permit renewal for the same temporary use at a location shall be considered a permanent use and shall be required to go through the Design Review process.
- 1.2. Structures and/or the display of merchandise shall comply with the setback requirements of the district within which it is located.

B. Site Layout:

- ~~2.3.~~ 1. Temporary structures and merchandise shall be displayed so as to not ~~to~~ interfere with the clear vision triangle. In no case shall items be displayed, or business conducted within the public right of way, unless otherwise authorized by the transportation authority.
- ~~3.4.~~ 2. Compressors, fans, pumps, and other motorized equipment shall be located or shielded to reduce noise levels to adjoining properties so as to not exceed 50 decibels at the property line.
- ~~4.~~ 5. ~~Except for the construction of a temporary office for model home sales, a~~ maximum of one structure in conjunction with the temporary use shall be allowed and may cover a maximum of five hundred (500) square feet.
6. No use shall be located on a site in a way that would block a private or public sidewalk.
7. A temporary use shall not result in the removal of any trees.

C. Parking and Access:

8. Adequate off-off-street parking shall be provided to serve the use.
9. The use shall not displace the required off-off-street parking spaces or loading areas of the permitted uses on the site.
10. The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.
11. All surfaces used for parking shall be constructed with paving, vegetative cover or of dustless material.

DB. Requirements and Limitations:

1. ~~Except for the construction of an office for model home sales, t~~he use shall not result in the construction of any permanent structures that would not otherwise be permitted subject to the provisions of this title.
2. The applicant shall provide notarized consent of the property owner.
- ~~2.3.~~ Any temporary structures shall be portable and completely removed from the premise at the end of the allowed time period.
4. Except as otherwise defined in this section, one temporary use is allowed on a property for a the specified period ~~not exceeding two (2) weeks in any twelve (12) month period from the date of issuance of a temporary use permit. For seasonal stands or events, t~~
- ~~3.5.~~ The temporary use permit shall specify a beginning and end date of the use.
- ~~4.6.~~ Any use of a temporary nature that does not meet the definition of a "temporary use" as defined in chapter 7, article A of this title shall be reviewed and permitted only as the use is allowed in the base zoning district.

7. All signs erected in association with the use shall be in compliance with the regulations for signs as set forth in chapter 4, article F, "Sign Provisions", of this title.
8. A building permit for temporary structures may be required as set forth in title 7, "Building Regulations", of this code.
9. Activities or uses of a site that are prohibited by this title shall be prohibited.
10. Activities or uses of a site that require a conditional use permit shall be required to obtain a conditional use permit prior to the commencement of the use.
11. No direct sales to customers while customers are in vehicles shall be allowed.
- 5-12. The sale or storage of alcohol is prohibited.

**EC.** Site Maintenance:

1. The site shall be returned to a clean condition after the termination of the use, including being free of debris and garbage.
2. All outdoor display of merchandise shall be in compliance with the standard set forth in subsection 8-1C-3N, "Outdoor Display Of Merchandise", of this title.
3. Unsold food products, ~~trees, greens, or and~~ debris generated by the use shall be properly disposed off the site.
4. Any vehicles that may be used in conjunction with the use must be
  - a. Legally licensed through a department of transportation;
  - b. Be immediately movable.
  - a-c. Completely removed from the premise at the termination of the permit.

**FD.** Standards for Specific Types of Temporary Uses

**1.** Additional Standards for Fireworks Stands:

- ~~1a. Prohibited:~~ The use shall be prohibited in residential districts.
- ~~2b. Other Standards Apply:~~
  - a- The applicant or owner shall obtain written approval of the fire authority and the Garden City police department.
  - c. -Dates of the fireworks sales shall comply with Idaho Code section 39-2606 and title 4, chapter 8 of this code.

**G2.** Additional Standards for ~~Model-model Home-home Salessales, And Construction construction Officeoffice, temporary storage, and construction staging areas:~~

- ~~1a.~~ The sales office shall be located on a lot within a subdivision or planned unit development.
- ~~2b.~~ The use of the sales office shall be limited to the sale of lots and/or dwellings within the development.

~~3c.~~ When required, the applicant or owner shall obtain a building permit to convert the sales office to a dwelling or shall remove the sales office within thirty (30) days of the sale or rent of the final lot or space.

~~4d.~~ Temporary buildings, construction trailers, temporary fences, equipment and materials may be permitted in any district during the period construction work is in progress, provided that the location and nature have been included as part of an approved permit. Such temporary facilities or equipment shall be removed within sixty (60) days of substantial completion of the construction work.

e. Temporary storage not associated with a building permit or other City approval is limited to thirty (30) days per calendar year and is exempt from the temporary use permit.

### ~~H3.~~ Additional Standards For Seasonal Sale Of Agricultural And Food Products:

- ~~a.~~ Such sales are limited to a period of time not to exceed two (2) consecutive months for pumpkin and Christmas tree sales, and four (4) consecutive months per calendar year for other uses.
- ~~b.~~ Christmas tree lots shall be removed by January 1.

### ~~I.~~ Additional Standards For Arts, Entertainment Or Recreation Event:

- ~~1.~~ Events, such as festivals, carnivals, circuses, fairs, and amusement rides may be allowed in any nonresidential district for a period not to exceed two (2) weeks within any ninety (90) day period.
- ~~2.~~ The Garden City police department shall approve the location and access for any use in this category.

### ~~J4.~~ Additional Standards For Vendors Not Associated With An Arts, Entertainment Or Recreation Event:

- ~~1a.~~ The applicant shall provide notarized consent of the property owner.
- ~~2a.~~ The use shall be prohibited in residential districts.
- ~~3.~~ Signs shall only be allowed on the vending units and shall not exceed sixteen (16) square feet in area.
- ~~4b.~~ No direct sales to customers in vehicles shall be allowed.

### ~~K.~~ Other Standards Apply:

- ~~1.~~ All signs erected in association with the use shall be in compliance with the regulations for signs as set forth in chapter 4, article F, "Sign Provisions", of this title.
- ~~2.~~ All outdoor display of merchandise shall be in compliance with the standard set forth in subsection 8-1C-3N, "Outdoor Display Of Merchandise", of this title.
- ~~3.~~ A building permit for temporary structures may be required as set forth in title 7, "Building Regulations", of this code.

**SECTION 6.** That Title 8, Chapter 4, Article A, Section 3 (“Fences and Walls”), Garden City Code, be, and the same is hereby amended to read as follows:

A. A.— Applicability: All new fences shall be required to be in conformance with this section. Legal nonconforming fences may remain so as long as there are no significant improvements to the site or specifically conditioned in a conditional use permit.

A.B. Permit Required: Anyone constructing a fence or wall over six feet (6') in height, not in conjunction with a building permit for a principal use or building shall first obtain Design Review Committee approval and a building permit from the city prior to construction., or a Any fence located in the floodway shall secure a floodplain permit from the city prior to construction.

BC. Maximum Height Requirements:

1. Fences and walls located along a street frontage within the front yard setback: Three and one-half feet (3.5').

2. Fences and walls located within rear and interior side setbacks not adjacent to public rights-of-way: Six feet (6').

3. Fences and walls on residential property with rear and interior side yards located adjacent to commercial uses: Eight feet (8').

~~4. Fences and walls on corner properties: Six feet (6') with a minimum setback of ten feet (10') from the front property line.~~

4. The height of fences and walls shall be measured from the existing grade.

D. Setbacks:

1. Fences greater than three and one-half feet (3.5') shall be set back to be flush or behind the building frontage. Where there is no building frontage, fences greater than three and one-half feet (3.5') shall be set back minimally ten feet (10') from the back of sidewalk so as to allow for street trees and landscaping between the fence and the sidewalk.

~~GE. —Fences And Walls Subject To Design Review: The following fences and walls shall be approved through the design review process as set forth in section 8-6B-3, "Design Review Committee", of this title.~~

~~1. Electric And Barbed Wire Fencing: Electric and barbed wire fencing may be allowed in the LI, C base districts and around agricultural uses when: a) used as the top section~~

~~for security fencing; and b) located a minimum of six feet (6') above grade to the bottom wire.~~

~~2. Prohibited Fencing Materials: The use of barbed wire, razor wire, boxes, sheet metal, old or decayed wood, broken masonry blocks, chain link, chain link with slats, or other like unsightly materials for fencing shall be prohibited. unless an application is made to design review committee and the committee finds the fence to be compliant with the following:~~

~~1. Implement the vision as set forth in the comprehensive plan; and~~

~~2. Demonstrate that the fence provides significant creativity and uniqueness, and the intent is not to merely evade the provisions set forth in this section, or can demonstrate that the fence is an established icon that enhances the community's assets more than a fence complying with the requirements set forth in this section; and~~

~~5. Demonstrate that it is constructed of professional and durable materials, and are not intended to be of temporary nature.~~

**SECTION 7.** That Title 8, Chapter 4, Article C, Section 5, Subsection B (“Prohibitions”), Garden City Code, be, and the same is hereby amended to read as follows:

*A. Stylized Buildings: Garden City respects that independent businesses, corporations and franchises use specific architectural designs to identify their businesses and attract customers. The city encourages independent businesses, corporations and franchises to build locations in Garden City using architectural designs that comply with this code, conform to the city’s comprehensive plan and goals, and complement surrounding structures. All new business, corporate and franchise designs will be reviewed on a case by case basis by the design review committee to assure compliance with these plans and goals.*

**Figure 8-4C-16**



**Example Of Stylized Building**

B. *Visible False Fronts: False fronts that are not tied into the rest of the building, that are designed so that the ends are visibly separate from the building.*

**Figure 8-4C-17**



**Example Of Visible False Front**

C. *Metal Buildings/Prefabricated Structures:*

*1. Principle and accessory structures visible from the right-of-way that are made of prefabricated materials such as shipping containers or pre-engineered metal buildings unless they contain architectural features and a variety of materials so that they lose the appearance of being a prefabricated structure. Metal buildings should be prohibited except within the light industrial (LI) base zoning district.*

D. *Prohibited Materials: ~~Chainlink fence and crushed~~ Crushed colored rock/crushed tumble glass are prohibited site improvement materials unless it is found that the material is insignificant in the design or provides significant creativity and uniqueness.*

**SECTION 8.** That Title 8, Chapter 5, Article B, Section 6 (“Term of [Subdivision] Permits”), Garden City Code, be, and the same is hereby amended to read as follows:

A. Failure To Submit Final Subdivision: Approval of a preliminary subdivision and combined preliminary and final subdivision shall become null and void if ~~the applicant fails to record~~ a final subdivision has not been signed by the city clerk and engineer within one year of the approval of the preliminary subdivision; or one year of the combined preliminary and final subdivision unless an extension or phasing plan is approved by City Council.

~~B.— Phased Development: In the event that the development of the preliminary subdivision is made in successive phases in an orderly and reasonable manner, and conforms substantially to the approved preliminary subdivision, such phases, if submitted within successive intervals of one year, may be considered for final approval without resubmission for preliminary subdivision approval; or the applicant may request time extensions at yearly intervals for a period of time not to exceed five (5) years.~~

~~C.— Authorize Extension: Upon written request and filed by the applicant prior to the termination of the period in accord with subsection A of this section, the planning official may authorize a single extension of time to record the final subdivision not to exceed one year provided justifiable cause is demonstrated. Additional time extensions up to one year as determined and approved by the city council may be granted. With all extensions, the planning official or city council may require the preliminary subdivision or combined preliminary and final subdivision to comply with the current provisions of this title. No approval shall be extended more than four (4) years beyond the original approval.~~

~~D.— Failure To Meet Timetable: If the above timetable is not met and the applicant does not receive a time extension, the property shall be required to go through the subdivision procedure again.~~

**SECTION 9.** That Title 8, Chapter 6, Article A, Section 8 (“Expiration of Approvals”), Garden City Code, be, and the same is hereby amended to read as follows:

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.— Provided applicable regulations have not changed; one extension may be granted by staff not to exceed one hundred eighty (180) days.~~

~~GB. The approving body, or planning and zoning commission if staff was the approving body, City Council may allow for additional an extensions 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~~
- ~~4.3. There has been no major change in the neighborhood, plans, or policies that would affect the compatibility of the project; and~~
- ~~2. 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~~
- ~~3. It is determined by the City Council that it is in Garden City's best interest to grant the extension. Justifiable cause shall be demonstrated. An extension shall not be granted for more than three hundred sixty five (365) days.~~
- ~~4. Justifiable cause shall be demonstrated.~~
- ~~5. A request for an extension is no guarantee that the extension will be granted. No permit shall be extended more than four (4) years beyond the original approval.~~

**SECTION 10.** That Title 8, Chapter 7, Article A, Section 1 (“Definitions of Uses”), Garden City Code, be, and the same is hereby amended to amend the following definition:

**Temporary Use:** The use of a site for more than three (3) days and less than nine-three (93) consecutive months unless otherwise specified by standards specified for specific types of Temporary Uses in this Title. ~~Produce stands and mobile, nonmotorized food carts are exempt from vendor licensing under section 3-4-4 of this code.~~

**SECTION 11.** That Title 8, Chapter 7, Article A, Section 1 (“Definitions of Uses”), Garden City Code, be, and the same is hereby amended to add the following uses and definitions:

**Special Event:** A temporary use that is open to the public that lasts three days or less.

**Mobile Service:** A business or service that is operated from a vehicle or trailer, and is at a given location for less than 24 hours. Examples of mobile services may include food trucks, mobile veterinary services, or mobile medical services. This use as defined in this Title does not include the parking or storage of the vehicle or trailer when the service is not in operation.

**SECTION 12.** All ordinances of the City of Garden City that conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION 13.** That the Summary of the Ordinance, attached hereto as Exhibit A, is hereby approved as to both form and content.

**SECTION 14.** This ordinance shall be in full force and effect from and after passage, approval, and publication.

**PASSED** by the City Council and **APPROVED** by the Mayor of Garden City, Idaho, this 28<sup>th</sup> day of January, 2019.

ATTEST:

  
\_\_\_\_\_  
Lisa M. Leiby, City Clerk

APPROVED:

  
\_\_\_\_\_  
John G. Evans, Mayor



BEFORE THE DESIGN REVIEW COMMITTEE  
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:	)	SUBFY2017-1
	)	
Bridge Townhomes Subdivision Final Plat	)	FINDINGS OF FACT,
327 e. 35 <sup>TH</sup> St. and 3576 N. Prospect Way	)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho	)	AND DECISION
_____	)	

THIS MATTER, came before the Garden City Design Review Committee for consideration on March 20<sup>th</sup>, 2017 after being remanded by the City Council of Garden City on March 13<sup>th</sup>, 2017. The Design Review Committee reviewed the application and materials submitted. Based on the evidence presented, pursuant to Garden City Code Table 8-6A-1, the Design Review Committee makes the following Findings of Fact, Conclusions of Law and Decision:

**FINDINGS OF FACT**

1. The applicant is Todd Weltner.
2. The property owner is James M. Neill.
3. The location of the project is 327 E. 35th, Parcel R9242370020 Lot 02 Block 01 Waterfront District Subdivision, 0.835 acres and 3576 North Prospect Way, Parcel R9242370030 Lot 03 Block 01 Waterfront District Subdivision, 0.287 Acres.
4. The application is for a Final Plat for a 25-lot (20-buildable, 5-common) subdivision.
5. The preliminary plat was processed as a Planned Unit Development.
6. The project is located in the Garden City M Mixed Use Zoning District.
7. The project is located in the Live-Work-Create and Transit Oriented land use designation of the Comprehensive Plan.
8. The record contains:

- a. Application Materials submitted on January 9<sup>th</sup>, 2017;
  - b. City Council Record Materials as reviewed on February 27<sup>th</sup>, 2017;
  - c. Design Review Findings of Fact, Conclusions of Law and Decision;
  - d. Design Review Committee Minutes;
  - e. 300' List of Property Owners;
  - f. Elevations submitted March 17<sup>th</sup>, 2017;
  - g. Landscape Plan submitted March 23<sup>rd</sup>, 2017;
  - h. 35<sup>th</sup> Street Perspective submitted April 1, 2017.
9. The City Council heard the application on February 27, 2017.
10. City Council remanded the final plat to the Design Review Committee for Design approval on March 13<sup>th</sup>, 2017.
11. Revised materials for Design Review were received March 10<sup>th</sup>, 2017.
12. On March 20<sup>th</sup>, 2017 and April 3<sup>rd</sup>, 2017, the Design Review Committee reviewed the following remanded items:
- a. Gating of 35<sup>th</sup> Street (aesthetics and emergency access);
  - b. Landscaping;
  - c. Dimensions of parking (parking accommodations, inventory, and functionality);
  - d. Building elevations and intrusions of buildings on other lots;
  - e. Dumpster location (impact on neighboring business).
13. The following section of the Garden City Municipal Code apply to this proposal:

<b>GCC 8-4 DESIGN AND DEVELOPMENT REGULATIONS</b>				
Compliant			Standards and Conclusions	
Yes	No	N/A	City Code	City Standards and Conclusion

X			8-4E	All new nonresidential development shall provide for pedestrian accessibility. Accessibility shall be from a direct, convenient and attractive pathway system.
			Conclusion	The Design Review Committee determined given the mixed-uses, commercial and residential, pedestrian accessibility is required. The Design Review Committee concluded accessibility is compliant with City Code per conditions.
X			8-4I-4	A minimum of one Class III or Class II tree shall be planted in the frontage and every adjacent streetside. An additional class I tree shall be planted in the corresponding setback for every increment of fifty feet of linear feet of frontage.
			Conclusion	The Design Review Committee concluded landscaping is compliant with City Code per conditions.
X			8-4D-2	For single-family units with more than one bedroom, two parking spaces within an enclosed garage are required. Tandem parking is allowed to meet parking requirements.
			Conclusion	The Design Review Committee concluded parking is compliant with City Code.
X			8-4B-3	All elevations adjacent to public streets must contain windows and shall have a direct and permanent pathway that connects to the sidewalk and an entrance with decorative posts or roof, or covered porch and modulation in the building facades.
			Conclusion	The Design Review Committee concluded the elevations are compliant with City Code per conditions.
X			8-4A-5	All on site service areas for waste, recycling, or trash; and equipment areas for transformer and utility vaults shall be located in an area not visible from a public street or adjoining property.
			Conclusion	The Design Review Committee concluded location of dumpster is compliant with City Code per conditions.

### CONCLUSIONS OF LAW

The Design Review Committee reviewed the remanded items with regard to Garden City Code, Title 8, Chapter 4, Articles: B-L, and based on the conditions required herein, concludes the remanded items meet the standards of approval under GCC 8-4 Design and Development Regulations.

## DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Design Review Committee hereby recommends approval of the remanded items for Bridge Townhomes, subject to the following conditions:

1. The opticom gate as reviewed on April 3, 2017 that will provided pedestrian access to subdivision shall also function as a focal point for the 35<sup>th</sup> Street neighborhood.
2. Class I trees rather than Class II or III trees may be planted on all lots to allow for mature spread.
3. One tree is required in the frontage of each lot with the exception of lots 20-23 and all common lots.
4. On lots 7-15, trees shall be planted to front the greenbelt.
5. On lots 1-5, trees shall be planted to front greenbelt access.
6. The trees located on common lots 25 and 17 may fulfill the requirement of tree frontage for lots 24 and 18.
7. The building elevations submitted March 20<sup>th</sup>, 2017 are approved with the condition that all garage doors are of opaque/clear material.
8. All parking spaces shall be at least 10'x20' or 10'x40' if in a tandem garage.
9. Three feet (3') setbacks from the greenbelt are allowed to facilitate retaining wall. No structure shall be closer than 3' to greenbelt.
10. Location of dumpster approved with the following conditions: dumpster will have a lid; dumpster will be in a coral; arborvitae will be planted around the dumpster; all refuse must be in an enclosed garbage bag; and applicant will work with Republic Services to ensure that there will be an early morning pick-up time.



---

Stephanie Russell on Behalf of the Design Review Committee

04/03/17

Date

BEFORE THE CITY COUNCIL  
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:	)	SUBFY2017-1
	)	
Bridge Townhomes Subdivision Final Plat	)	FINDINGS OF FACT
327 e. 35 <sup>TH</sup> St. and 3576 N. Prospect Way	)	AND CONCLUSIONS
Garden City, Ada County, Idaho	)	
_____	)	

THIS MATTER, came before the Garden City Council for consideration on May 8, 2017. The Council reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, pursuant to Garden City Code Table 8-6A-1, the Council makes the following Findings of Fact and Conclusions:

**FINDINGS OF FACT**

1. The applicant is Todd Weltner.
2. The Property Owner is James M. Neill.
3. The location of the project is 327 E. 35th, Parcel R9242370020 Lot 02 Block 01 Waterfront District Subdivison, 0.835 acres and 3576 North Prospect Way, Parcel R9242370030 Lot 03 Block 01 Waterfront District Subdivision, 0.287 Acres.
4. The application is for a Final Plat for a 25-lot (20-buildable, 5-common) subdivision.
5. The preliminary plat was processed as a Planned Unit Development.
6. The project is in the Garden City M Mixed Use Zoning District.
7. The project is located in the Live-Work-Create and Transit Oriented land use designation of the Comprehensive Plan.
8. The Planning and Zoning Commission and Garden City Design Review Committee were recommending bodies for the preliminary plat.
9. The following section of the Garden City Development Code applies to this proposal:

a. **GCC 8-5B-3 FINAL SUBDIVISION PROCESS**

10. A copy of the application and plans was transmitted to interested and affected public agencies and written comments were received from:
  - a. Republic Services;
  - b. Garden City Public Works Waste Water Division;
  - c. Garden City Public Works Water Division;
  - d. Garden City Public Works Environmental Division;
  - e. Central District Health;
  - f. Department of Environmental Quality;
  - g. Garden City Engineer (The Land Group);
  - h. North Ada County Fire and Rescue;
  - i. Boise School District.
  
11. The record contains:
  - a. Application Materials;
  - b. Property Owner Notices issued by City;
  - c. Legal Advertisements in Idaho Statesman for hearings;
  - d. Agency Referral Notice;
  - e. Agency Comments;
  - f. Affidavit of property posting;
  - g. Public Comment;
  - h. All preliminary plat record documents;
  - i. Record materials from the City Council February 27, 2017 and March 13, 2017 meeting;
  - j. Record materials from the Planning and Zoning Commission hearing April 19, 2017;

- k. Record materials from the Design Review Committee meetings March 20<sup>th</sup> and April 2<sup>rd</sup>, 2017;
  - l. City Council staff report for May 8, 2017 meeting;
  - m. City Council hearing signup sheet May 8, 2017 meeting;
  - n. City Council Decision May 8, 2017.
12. The application was received January 09, 2017.
13. A public hearing notice for the proposed application was published on February 12, 2017, and on February 02, 2017, notice was mailed to all property owners within a 300-foot radius of the said property in compliance with the public notice requirements of § 8-6A-7 of the Garden City Municipal Code.
14. Notice to agencies was sent January 31, 2017.
15. The applicant provided an affidavit that the property was posted on premise on February 15, 2017 in accordance with Garden City Code.
16. The City Council heard the application on February 27, 2017. During the hearing:
- a. Staff Jenah Thornborrow presented the staff report;
  - b. Jane Suggs presented the application;
  - c. During the public hearing Nicholas Jezierny, Shelley Young, Guy Midnight, Todd Hans, and Julie Compton testified with concerns related to the project. Jim Neill, Dave Crawford, Todd Weltner in favor of the application;
  - d. The public hearing was closed;
  - e. The City Council found that the application was not complete and not in substantial compliance with the preliminary plat approval of January 13, 2014;
  - f. Application for Final Plat of SUBFY2017-1 was remanded to the Planning and Zoning Commission to review and Design Review Committee 4/0.
17. On March 13, 2017 the City Council formalized their decision. The Garden City Council remanded Bridge Townhome Subdivision with instructions for the applicant to provide a complete final subdivision submittal, to:

- a. **Garden City Planning and Zoning Commission** to review:
    - i. Conversion of lot 5 from commercial to residential;
    - ii. Gating of 35<sup>th</sup> Street as to how it relates to parking; and
    - iii. Vehicular access on Lot 15 (whether there should be access and dedicated parking).
  - b. **Garden City Design Review Committee** to review:
    - i. Gating of 35<sup>th</sup> Street (aesthetics and emergency access);
    - ii. Landscaping;
    - iii. Dimensions of parking (parking accommodations, inventory, and functionality);
    - iv. Building elevations and intrusions of buildings on other lots; and
    - v. Dumpster location (impact on neighboring business).
18. The Planning and Zoning Commission and Design Review Committee were instructed to apply the ordinance(s) in effect at the time the Bridge Townhomes preliminary plat application was filed to review the application for the final plat.
  19. Revised materials for the Planning and Zoning Commission were received March 8, 2017.
  20. Revised materials for the Design Review Committee were received March 10, 2017.
  21. A public hearing notice for the proposed application was published on April 4, 2017, 2017, and on March 21, 2017, notice was mailed to all property owners within a 300-foot radius of the said property in compliance with the public notice requirements of § 8-6A-7 of the Garden City Code.
  22. Notice to agencies was sent March 17, 2017.
  23. Todd Weltner became the applicant of record on March 28, 2017.
  24. The applicant provided proof of premise posting on April 5, 2017 in accordance with Garden City Code.
  25. On April 6, 2017 Garden City Environmental provided review of Phase I

Environmental Assessment report and made comment.

26. On April 19, 2017 the City received an email from Joel Poppen in favor of the application.
27. The Garden City Planning and Zoning Commission heard the application on April 19, 2017. During the hearing:
  - a. Staff Jenah Thornborrow presented the staff report;
  - b. Todd Weltner presented the application;
  - c. During the public hearing Megan Griffin, Brian Vetter, Craig Weaver, Troy Little, Lou Landry, and Helen Torres spoke in favor of the application. Todd Hans, Shelley Young, Dennis Young, Victor Meyers and Guy Midnight gave testimony voicing concerns;
  - d. The public hearing was closed;
  - e. Recommended conditions of approval for Final Plat of SUBFY2017-1 were approved 3/0.
28. On May 3<sup>rd</sup>, 2017 the City was provided with a Statement of Conformance and revised Affidavit of Legal Interest on May 2<sup>nd</sup>, 2017.

### **CONCLUSIONS**

1. Garden City Code § 8-5B-3.C.2 requires that Final Plats are in substantial compliance with the approved preliminary plat.
2. The Garden City Planning and Zoning Commission and Garden City Design Review Committee have reviewed the items remanded for their consideration and made recommendations for approval of the final plat that are provided below.
3. This final plat application meets the following criteria as it pertains to the conditionally approved preliminary plat approved January 13, 2014:
  - a. The number of buildable lots is fewer.
  - b. The amount of common open space is the same.
  - c. The amount of open space is greater.
  - d. The number of open space lots is the same.

- e. There are no noted changes that will be required by the transportation authority.
- f. The general configuration has changed by less than ten percent (10%).

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions, the Garden City Council hereby does **APPROVE** Bridge Townhome Subdivision application SUBFY2017-1, subject to the following conditions of approval:

**Site Specific Requirements:**

1. The identified uses of the lots are as follows:
  - a. Lots 1 and 15: Mixed use meaning that the intent of the lot is to primarily be commercial in nature with allowance for the lots to also include residential uses.
  - b. Lots 2-5: Work-Live units shall be constructed in accordance with Code 8-3C-3 General Provisions: *D. Combined Work-Live Space Requirements*.
  - c. Lots 7-14, 18 and 24 may be residential.
  - d. Lots 20-23 are to be garage lots legally tied to lots 8-11 for the sole use of garages.
  - e. Lots 6,16,17, 25 and 19 are to be common lots in perpetuity.
  - f. This identification of uses does not include the restriction of any residential lot from converting to any use as found appropriate by Garden City Code at the time of its conversion.
2. If a gate is utilized at the terminus of 35<sup>th</sup> street it must remain unrestricted for pedestrian access.
3. Parking for lot 15 is appropriate on lot 16 and shall be designated as such on the plat.
4. The opticom gate as reviewed on April 3, 2017 that will provided pedestrian access to subdivision shall also function as a focal point for the 35<sup>th</sup> Street neighborhood.
5. Class I trees rather than Class II or III trees may be planted on all lots to allow for mature spread.

6. One tree is required in the frontage of each lot with the exception of lots 20-23 and all common lots.
7. On lots 7-15, trees shall be planted to front the greenbelt.
8. On lots 1-5, trees shall be planted to front greenbelt access.
9. The trees located on common lots 25 and 17 may fulfill the requirement of tree frontage for lots 24 and 18.
10. The building elevations submitted March 20<sup>th</sup>, 2017 are approved with the condition that all garage doors are of opaque/clear material.
11. All parking spaces shall be at least 10'x20' or 10'x40' if in a tandem garage.
12. Three feet (3') setbacks from the greenbelt are allowed to facilitate retaining wall. No structure shall be closer than 3' to greenbelt.
13. Location of dumpster approved with the following conditions: dumpster will have a lid; dumpster will be in a coral; arborvitae will be planted around the dumpster; all refuse must be in an enclosed garbage bag; and applicant will work with Republic Services to ensure that there will be an early morning pick-up time.
14. The underground storage tank should be located and the site remediated, if needed, under the guidance of, and to the satisfaction of, the Idaho Department of Environmental Quality. This shall be done prior to any construction activities. Garden City will require a letter of compliance from IDEQ be submitted prior to permit approval and /or the start of any ground work.
15. A streetlight shall be installed on North Prospect Way.
16. Work riverside of the Greenbelt is not approved under this approval.
17. Lots 1-15 shall front on the Greenbelt; Lots 7-15 shall have double frontage on Greenbelt and Common Drive; Lots 18 and 20-24 shall front on Common Drive.
18. Lots 6, 16, 17, 19 and 25 shall be noted on the plat as common lots not to be built on.
19. A signed easement, including legal description, must be provided to demonstrate that perpetual access to the common drive will be allowed to the public street utilizing the adjacent property of Lot 1 Block 1 Waterfront Subdivision prior to the final plat being signed by the City Clerk.
20. Lots 2-5, 7-14, 18 and 24 shall have two or more parking spaces provided to each lot. All parking spaces except for lots 1-15 are required to be in a garage.

21. Lots, 1 and 15 shall have at least one parking space. The parking space for Lot 1 may be located on Lot 25.
22. The common driveway is permitted to serve sixteen (16) proposed residences or commercial lots.
23. Lots 5-15 may have a reduced setback from the 70' setback from the ordinary high water mark. Where there is a reduction in the 70' requirement the setback buildings shall be at least 10' from the westerly side of the greenbelt easement. Retaining walls for landscaping purposes may be 3' from the edge of pavement of the Greenbelt. This reduction in the setback shall be noted on the plat.
24. Trees along the common drive on Lots 7-12 may be Class I. All other landscaping shall comply with GC Code requirements including percentage of vegetation and tree requirements. Design Review Committee shall review and approve landscape plan prior to final approval.
25. Documentation shall be provided to the City identifying who is responsible for the maintenance of all landscaping required.
26. Documentation must be provided to the City ensuring that the detached garages/shops, Lots 20-23, are legally tied to the townhomes, Lots 8-11, and cannot be sold separately or used other than accessory structures for the owners of the townhomes. This shall be noted on the plat.
27. Any work in the floodway or river side of the greenbelt must comply with current regulations and policies.
28. Setbacks of all lots shall be noted on the plat:
  - a. Lots 5 & 7-15 may contain landscaping retaining walls 3' from the edge of pavement of the greenbelt with all other structures 10' or more from Greenbelt easement or 70' from ordinary high water mark.
  - b. Lots 1-5 3' from access to Greenbelt from N. Prospect Way.
  - c. Lot 1 10' from N. Prospect Way.
  - d. Lots 7-15 0' interior 3' exterior side.
  - e. Lots 7-15 5' from common drive.
  - f. Lot 15 10' side and 0' rear.
  - g. Lots 18 and lots 20-24 0' all setbacks.

- h. All lots 0' sides interior to development and 3' to adjacent parcels not part of this subdivision if setback not otherwise noted.

**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 prior to signature of the plat and finalization of the plat.
3. Any changes to the plans and specifications upon which this approval is based, other than those required by the above conditions, will require submittal of an application for modification and approval of that application prior to commencing any change. Changes by applicant or required by any agency shall be submitted to the City for review.
4. Proof of current ownership of the real property included in the proposed final subdivision and consent of recorded owners of the subdivision shall be provided.
5. Such other information as the planning official or city engineer may deem necessary to establish whether or not all proper parties have signed and/or approved said final subdivision.
6. A copy of the recorded CC&Rs shall be provided to the City.
7. All easements must be either noted on the plat or recorded individually with the county and submitted to the City. Any easement that the City is beneficiary of must be approved by Garden City Council.
8. 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.
9. The final subdivision shall contain the certifications required under Idaho Code section 50-1301 et seq., as well as those required by the city.
10. Final approval is subject to the approval of other reviewing agencies. Any more restrictive standards adopted and made applicable by any Transportation Authority, Fire Authority or other Federal, State or Local regulatory agencies shall prevail. This approval shall not annul any portion of Garden City Code or other applicable regulation unless specifically noted.
11. No subdivision plat shall be recorded by the Ada County Recorder until such subdivision plat has received final approval by the Council, and is signed by the City Clerk and City Engineer.

12. Prior to signature of the final plat the subdivision shall be in compliance with the application and approval conditions.
13. All demolition must be completed and all improvements as noted as a part of this subdivision application with the exception of the construction of the structures permitted through the building code shall be made or an approved surety for such improvements shall be provided. No uses or structures that have not been noted as part of this application shall be allowed to continue or be constructed.
14. 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 and a Letter of Credit or cash held in trust in accordance with 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.
15. Final subdivision approval shall indicate the acceptance of the infrastructure for all improvements and any required amenities associated with the subdivision. Final approval of the subdivision cannot occur until all infrastructure and amenities have physically been installed.
16. Property maintenance standards shall be maintained as required by Garden City Code.
17. 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.
18. 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.
19. Driveway openings in curbs shall comply with the requirements of the Transportation Authority.
20. Driveways shall be straight or provide a 28-foot inside and 48-foot outside turning radius.
21. 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.

22. 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.
23. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
24. Retain and protect existing trees, vegetation, and native soils and integrate these features into the overall landscape plan.
25. 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.
26. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
27. 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.
28. 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.
29. 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.
30. The landscape installation shall stabilize all soil and slopes.
31. The property owner is responsible for the maintenance of all landscaping and screening devices required.
32. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with best management practices for automatic irrigation systems.
33. Each lot that contains landscaping within the subdivision shall have underground pressurized irrigation water pursuant to GCC 8-5A-5 H. 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.

34. 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.
35. Unobstructed easements, including but not limited to, drainage, water, and sewer easements shall be provided as required by the City. Unless otherwise approved by the City, 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.
36. Unobstructed easements, including but not limited to, public access to or for the greenbelt shall be provided as required by the City. The minimum constructed greenbelt width shall be 12' or greater with an easement for 3' of clearance on either side of the pathway.
37. 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.
38. 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. Final approval is based on conformance with the plans reviewed and approved.
39. 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.
40. 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 required approvals.
41. All previous uses at this location shall are considered abandoned.
42. Occupying the site with any use without Certificate of Occupancy is a criminal offense.

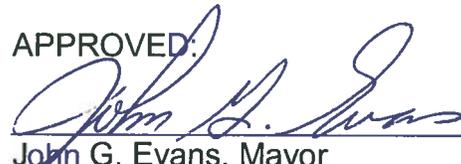
- 43. Approval of a final plat shall become null and void if the applicant fails to record a final subdivision within one (1) year of the approval. Development shall commence within two (2) years of approval. If the timetable is not met and the applicant does not receive a time extension, the application will expire and become null and void. The Planning Official may authorize a single extension of time to record the final subdivision not to exceed one (1) year. Additional time extensions up to one (1) year as determined and approved by the City Council may be granted. With all extensions, the Planning Official or City Council may require the subdivision to comply with the current regulations.
- 44. Final decisions are subject to a 28-day right to judicial review.
- 45. Pursuant to Idaho Code, section 67-8003, the Applicant has the right to request a regulatory taking analysis.

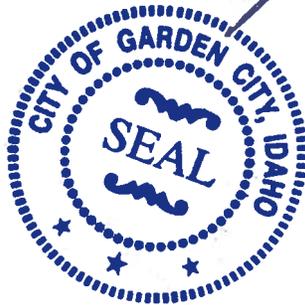
**BY ACTION OF THE CITY COUNCIL** of the City of Garden City at its regular meeting held on the 8<sup>th</sup> day of May, 2017.

ATTEST:

  
\_\_\_\_\_  
Lisa M. Leiby, City Clerk

APPROVED:

  
\_\_\_\_\_  
John G. Evans, Mayor



BEFORE THE DESIGN REVIEW COMMITTEE  
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:	)	SUBFY2017-1/PUD2013-2
	)	
Bridge Townhomes PUD Design Amds.	)	FINDINGS OF FACT,
327 E. 35 <sup>TH</sup> St. and 3576 N. Prospect Way	)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho	)	AND DECISION
_____	)	

THIS MATTER, came before the Garden City Design Review Committee for consideration on August 19, 2019. The Design Review Committee reviewed the application and materials submitted. Based on the evidence presented, pursuant to Garden City Code Table 8-6A-1, the Design Review Committee makes the following Findings of Fact, Conclusions of Law and Decision:

**FINDINGS OF FACT**

1. The property owner and applicant is Todd Weltner.
2. The location of the project is the Bridge Townhomes Subdivision.
3. The original decision was rendered May 8, 2017.
4. The application is for modification to structure facades.
5. The project is located in the Garden City M Mixed Use Zoning District.
6. The project is located in the Live-Work-Create and Transit Oriented land use designation of the Comprehensive Plan.
7. A pre-application conference with the Design Committee was held on June 17, 2019.
8. The PUD modifications were received July 15, 2019. A Design Committee hearing was scheduled for August 19, 2019.
9. A radius notice was sent to property owners within 300' of the subject property on July 16, 2019.
10. A legal notice was published in the newspaper on July 19, 2019.

11. A property posting sign and affidavit of property posting was completed, verifying the property was posted on August 8, 2019.
12. At the August 19, 2019 Design Committee hearing:
  - a. Todd Weltner presented the proposed modifications.
  - b. Chris Samples presented the staff report.
  - c. Public testimony in support was heard from Jason Jones, Hannah Ball, and Bryant Forester.
  - d. Public testimony in opposition was heard from Victor Myers, Tom Baskin, Meagan Griffin, and Andy Haws.
  - e. Todd Weltner provided rebuttal testimony.
  - f. Public testimony was closed.
  - g. Committee member Hurd move to approve the requested amendments as presented.
  - h. Committee member Labrie seconded.
  - i. The motion carried unanimously.
13. The record contains:
  - a. PUD Modification Materials – July 15, 2019
  - b. Approved Materials – May 8, 2017
  - c. Design Committee Findings of Fact, Conclusions of Law and Decision;
  - d. Design Committee Minutes – June 17, 2019;
  - e. Design Committee Minutes – August 19, 2019
  - f. Noticing Documents
  - g. Public Comments
  - h. Agency Comments
  - i. Public Hearing Sign In Sheets – August 19, 2019 Hearing
14. The following section of the Garden City Municipal Code apply to this proposal:

<b>GCC 8-6B-3 DESIGN REVIEW COMMITTEE: REQUIRED FINDINGS</b>	
Conclusion	

Compliant	Not Compliant	Not Applicable to this Application	Standard
X			<p><b>Standard:</b> The proposed design is in conformance with the purpose of the zoning district and all dimensional regulations of that district.</p> <p><b>Explanation:</b> The proposed modifications conform with the purpose of the M Mixed Use Zoning district and all dimensional regulations of the district.</p>
X			<p>The proposed design adheres to standards for the protection of health, safety, and general welfare.</p> <p><b>Explanation:</b> The proposed modifications are required to adhere to applicable health and safety regulations.</p>
X			<p>The proposed design creates a sense of place and contributes to the uniqueness of the different districts and neighborhoods within the city.</p> <p><b>Explanation:</b> The proposed modifications do not change the overall intent of the development and maintain the sense of place and uniqueness of the development.</p>
			<p>The proposed design improves the accessibility of development to non-motorized and public modes of transportation.</p> <p><b>Explanation:</b> Not applicable. Façade changes do not affect connectivity.</p>
		X	<p>The proposed design supports a development pattern in nodes rather than strip commercial along arterial corridors.</p> <p><b>Explanation:</b> Not applicable. Façade changes do not affect the development pattern.</p>
		X	<p>The proposed design supports a compact development pattern that enables intensification of development and changes over time.</p> <p><b>Explanation:</b> Not applicable. Façade changes do not affect the development pattern.</p>

		X	The proposed design provides outdoor spaces and landscaping compatible with the southwest Idaho climatic conditions and encourages pedestrian activity.
			<b>Explanation:</b> Not applicable. Landscaping changes not proposed with this modification.

### CONCLUSIONS OF LAW

The Design Committee reviewed the request and based on the conditions required herein, concludes the modifications meet the standards of approval under GCC 8-6B-7 Planned Unit Development and 8-6B-2 Conditional Use.

### DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Design Committee hereby approves the requested modifications with the following conditions:

#### Site Specific Requirements:

1. The May 8, 2017 City Council decision shall remain valid and in force. This decision is hereby amended as follows:
  - a. The building facades shall adhere to the elevations submitted on July 15, 2019.
2. All other conditions noted in the May 8, 2017 City Council decision shall remain valid and in force.
3. There is a 15 day right to appeal to City Council. An appeal shall be made on the form provided by the City and filed with the City Clerk within 15 days after the action of the decision.
4. Final decisions are subject to judicial review pursuant to The Idaho Administrative Procedures Act, Chapter 65 Title 67 Idaho Code.
5. 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.
6. A takings analysis pursuant to Idaho Code may be requested on final decisions.

7. 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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Design Review Committee

9/3/19  
Date

BEFORE THE DESIGN REVIEW COMMITTEE  
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:	)	SUBFY2017-1/PUD2013-2
	)	
Bridge Townhomes PUD Amendments	)	FINDINGS OF FACT,
327 E. 35 <sup>TH</sup> St. and 3576 N. Prospect Way	)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho	)	AND DECISION
_____	)	

THIS MATTER, came before the Garden City Design Review Committee for consideration on August 19, 2019. The Design Review Committee reviewed the application and materials submitted. Based on the evidence presented, pursuant to Garden City Code Table 8-6A-1, the Design Review Committee makes the following Findings of Fact, Conclusions of Law and Recommendation:

**FINDINGS OF FACT**

1. The property owner and applicant is Todd Weltner.
2. The location of the project is the Bridge Townhomes Subdivision.
3. The original decision was rendered May 8, 2017.
4. The application is for the following modifications to the approved planned unit development (PUD):
  - a. Approval of the Greenbelt fence and wall height to 6 – 8’ depending on site conditions.
  - b. Modification of site specific condition 7 to allow shrubs along the Greenbelt wall instead of the approved trees within the setback.
  - c. Modification of site specific condition 12 to reduce the Greenbelt wall setback to two feet (2’) from the approved 3’.
  - d. Modification of site specific condition 28a to allow landscaping 2’ from the edge of the pavement of the Greenbelt.
5. The project is located in the Garden City M Mixed Use Zoning District.
6. The project is located in the Live-Work-Create and Transit Oriented land use designation of the Comprehensive Plan.

7. A pre-application conference with the Design Committee was held on June 17, 2019.
8. The PUD modifications were received July 15, 2019. A Design Committee hearing was scheduled for August 19, 2019.
9. A radius notice was sent to property owners within 300' of the subject property on July 16, 2019.
10. A legal notice was published in the newspaper on July 19, 2019.
11. A property posting sign and affidavit of property posting was completed, verifying the property was posted on August 8, 2019.
12. At the August 19, 2019 Design Committee hearing:
  - a. Todd Weltner presented the proposed modifications.
  - b. Chris Samples presented the staff report.
  - c. Public testimony in support was heard from Jason Jones, Hannah Ball, and Bryant Forester.
  - d. Public testimony in opposition was heard from Victor Myers, Tom Baskin, Meagan Griffin, and Andy Haws.
  - e. Todd Weltner provided rebuttal testimony.
  - f. Public testimony was closed.
    - a. Committee member Labrie move to recommend the wrought iron fence along Greenbelt be approved if it meets the setback and height restrictions, side yard setback.
    - b. Committee member Hurd Seconded.
    - c. The motion carried unanimously.
    - d. Committee member Gresham moved to recommend denial of the requests related to the rock wall. of the PUD amendments, consisting of the wall height, wall setback, and the substitution of trees for shrubs along the Greenbelt.
    - e. No one seconded the motion. Motion dies
    - f. Committee member Hurd moved to recommend approval of the rock wall height and setback and landscaping changes as presented.
    - g. Committee member Labrie seconded.
    - h. The motion carried with two votes in favor from Hurd and Labrie and one in opposition from Gresham.
13. The record contains:
  - a. PUD Modification Materials – July 17, 2019
  - b. Approved Materials – May 8, 2017
  - c. Design Committee Findings of Fact, Conclusions of Law and Recommendation;

- d. Design Committee Minutes – June 17, 2019;
- e. Design Committee Minutes – August 19, 2019
- f. Noticing Documents
- g. Public Comments
- h. Public Hearing Sign In Sheets – August 19, 2019 Hearing

14. The following section of the Garden City Municipal Code apply to this proposal:

<b>GCC 8-6B-7 PLANNED UNIT DEVELOPMENT: REQUIRED FINDINGS</b>			
Compliant			City Standards and Conclusion
Yes	No	N/A	
		X	<p>Finding: The applicant has demonstrated that the proposed development can be initiated within two (2) years of the date of approval.</p> <p>Conclusion: Not applicable due to scope of modification.</p>
		X	<p>Finding: Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which would not be achieved under standard district regulations.</p> <p>Conclusion: Not applicable due to scope of modification.</p>
		X	<p>Finding: The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic and increased densities will not generate traffic in such amounts as to overload the street network outside the PUD.</p> <p>Conclusion: Not applicable due to scope of modification.</p>
		X	<p>Finding: Any proposed commercial development can be justified at the locations proposed.</p> <p>Conclusion: Not applicable due to scope of modification.</p>

X			Finding: Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan, in accordance with the PUD and the adopted policy of the Council.
			Conclusion The wall height and setback and landscape modifications comply with this finding. The exemptions are warranted by structure design and placement adjacent to the Greenbelt.
		X	Finding: The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
			Conclusion: Not applicable due to scope of modification.
X			Finding: The PUD is in general conformance with the comprehensive plan.
			<p>Conclusion: The wall height and setback and landscape modifications are in compliance with this finding. The requests are in conformance with the following Goals, Objectives, and Action Steps of the 2006 Comprehensive Plan:</p> <p style="padding-left: 40px;">Goal 5: Focus on the River Objective 5.7: Maintain and protect the Greenbelt Action Step 5.7.3: Protect the greenbelt from private development. Enforce codes for private property maintenance, and control of runoff, litter, and debris. Adopt minimum setback requirements for new development.</p> <p>The proposed modifications enhance focus on the River, protect the Greenbelt, and help to mitigate the Greenbelt from the effects of private development.</p>
		X	Finding: The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.
			Conclusion: Not applicable due to scope of modification.

<b>GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS</b>			
Compliant			
Yes	No	N/A	City Standards and Conclusion

X			Finding: The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district.
			Conclusion: The fence/wall height and setback and landscape modifications complies this finding. The requests are appropriate the location along the Greenbelt.
X			Finding: The use will be supported by adequate public facilities or services to the surrounding area, or conditions can be established to mitigate adverse impacts.
			Conclusion: The fence/wall height and setback and landscape modifications complies with this finding. The requests affect the Greenbelt, but conditions can be establish to mitigate adverse impacts.
X			Finding: The use will not unreasonably diminish either the health, safety or welfare of the community.
			Conclusion: The fence/wall height and setback and landscape modifications complies with this finding. The requests affect the health, safety or welfare of users of the Greenbelt, but conditions can be established to protect Greenbelt users.
X			Finding: The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.
			<p>Conclusion: The fence/wall height and setback and landscape modifications complies with this finding. The requests are in conformance with the following Goals, Objectives, and Action Steps of the 2006 Comprehensive Plan:</p> <p>Goal 5: Focus on the River  Objective 5.7: Maintain and protect the Greenbelt  Action Step 5.7.3: Protect the greenbelt from private development. Enforce codes for private property maintenance, and control of runoff, litter, and debris. Adopt minimum setback requirements for new development.</p> <p>The proposed modifications enhance focus on the River, protect the Greenbelt, and help to mitigate the Greenbelt from the effects of private development.</p>

## CONCLUSIONS OF LAW

The Design Committee reviewed the request and based on the conditions required herein, concludes the modifications meet the standards of approval under GCC 8-6B-7 Planned Unit Development and 8-6B-2 Conditional Use.

## DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Design Committee hereby recommends approval of the requested modifications with the following conditions:

### Site Specific Requirements:

1. The May 8, 2017 City Council decision shall remain valid and in force. This decision is hereby amended as follows:
  - a. Site specific condition #7 is amended to state "On lots 7-15, shrubs shall be planted to front the greenbelt. The shrubs shall be trimmed to be clear of the greenbelt."
  - b. Site specific condition #12 is amended to state "Two feet (2') setbacks from the greenbelt are allowed to facilitate the retaining wall and fence. No other structure shall be closer than 3' to greenbelt."
  - c. Site specific condition #28a is amended to state "Lots 5 & 7-15 may contain landscaping retaining walls 2' from the edge of pavement of the greenbelt with all other structures 10' or more from Greenbelt easement or 70' from ordinary high water mark."
  - d. Site specific condition #29 is added and states "The retaining wall along the Greenbelt may be up to eight feet (8') in height."
2. All other conditions noted in the May 8, 2017 City Council decision shall remain valid and in force.
3. There is a 15 day right to appeal to City Council. An appeal shall be made on the form provided by the City and filed with the City Clerk within 15 days after the action of the decision.
4. Final decisions are subject to judicial review pursuant to The Idaho Administrative Procedures Act, Chapter 65 Title 67 Idaho Code.
5. 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.
6. A takings analysis pursuant to Idaho Code may be requested on final decisions.

7. 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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Design Review Committee

9/13/19

Date

BEFORE THE PLANNING AND ZONING COMMISSION  
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:	)	SUBFY2017-1/PUD2013-2
	)	
Bridge Townhomes PUD Amendment	)	FINDINGS OF FACT
E. 35 <sup>th</sup> Street	)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho	)	AND
_____	)	RECOMMENDATION

THIS MATTER, came before the Garden City Planning and Zoning Commission for consideration on August 21, 2019. 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 property owner and applicant is Todd Weltner.
2. The location of the project is the Bridge Townhomes Subdivision, as noted in the Bridge Townhomes Subdivision Plat.
3. The subject property is 0.835 acres.
4. The original decision was issued by the City Council on May 8, 2017.
5. The application is for the modification of the decision for the following:
  - a. Approval of the Greenbelt fence and wall height to 6 – 8' depending on site conditions.
  - b. Modification of site specific condition 7 to allow shrubs along the Greenbelt wall instead of the approved trees within the setback.
  - c. Modification of site specific condition 12 to reduce the Greenbelt wall setback to two feet (2') from the approved 3'.
  - d. Modification of site specific condition 28a to allow landscaping 2' from the edge of the pavement of the Greenbelt.
6. The project is in the TOD Node Designation of the 2006 Comprehensive Plan Land Use Map.
7. The project is in the M – Mixed Use Zoning District.

8. The following sections of the Garden City Development Code applied to the original decision:
  - a. Design Review: Title 8-Chapter 4, Articles B and C
  - b. Driveways: Title 8- Chapter 4, Article E
  - c. Erosion Control: Title 4-Chapter 15
  - d. Floodplain: Title 8-Chapter 3, Article B
  - e. Landscaping: Title 8-Chapter 4, Article I
  - f. Open Space: Title 8-Chapter 4, Article L
  - g. Parking: Title 8-Chapter 4, Article D
  - h. Planned Unit Development: Title 8-Chapter 6, Article B
  - i. Public water and sewer systems: Title 6
  - j. Sidewalks: Title 8-Chapter 4, Article E
  - k. Storm drainage and erosion control: Title 4-Chapter 14
  - l. Street design and development standards: Title 8-Chapter 4, Article E
  - m. Sustainable Development Provisions: Title 8-Chapter 4, Article G
  - n. Utilities: Title8-Chapter4, Article A
  - o. Zoning District Provisions: Title 8-Chapter 2, Article B
  - p. Subdivisions within a floodplain: Title 8- Chapter 5
  - q. Planned Unit Development and Conditional Use Permit Title 8- Chapter 6, Article B
  
9. The following sections of the Garden City Development Code apply to the modification:
  - a. Planned Unit Development and Conditional Use Permit Title 8- Chapter 6, Article B
  
10. A copy of the application and plans were transmitted to interested and affected public agencies and written comments were received from:
  - a. None
  
11. The record contains:
  - a. Neighborhood meeting materials;
  - b. Application Materials;
  - c. Agency Referral Notice;
  - d. Agency Comments;
  - e. Public Comments;
  - f. Property Owner Notices;
  - g. Legal Advertisements in Idaho Statesman for hearings;
  - h. Affidavit of property posting;
  - i. Staff report;
  - j. Planning and Zoning Commission Hearing Sign-Up Sheets.
  - k. Planning and Zoning Commission Recommendation
  
12. The application was received July 15, 2019.

13. The applicant was scheduled for a Commission Public Hearing on August 21, 2019.
14. The Commission Public Hearing was held within sixty (60) days of receipt of the application.
15. A public hearing notice for the proposed application was published on July 19, 2019, and on July 16, 2019, notice was mailed to all property owners within a 300-foot radius of the said property in compliance with the public notice requirements of Section 8-6A-7 of the Garden City Municipal Code.
16. The applicant provided an affidavit that the property was posted on premise in accordance with Garden City Code.
17. During the Planning and Zoning Commission Hearing on August 21, 2019:
  - a. Todd Weltner presented the application.
  - b. Staff Chris Samples presented the staff report.
  - c. Public testimony was heard from:
    - i. In Support:
      1. Kristen Jones
      2. Chris Reiten
      3. Jim Neill
      4. Brian Vetter
      5. Jason Jones
      6. Kim Trout
      7. Ken Oakeson
      8. Bryant Forrester
      9. Troy Little
    - ii. In Neutral: None
    - iii. In Opposition:
      1. Nancy Baskin
      2. Victor Myers
      3. Andy Hawes
  - d. Public testimony was closed.
  - e. Commissioner Rasmussen moved to recommend approval of the application to the City Council as presented in the draft findings of fact, conclusions of law, and recommendation.
  - f. Commissioner Brown seconded.
  - g. The motion passed unanimously.
18. In consideration of a preliminary subdivision or combined preliminary and final subdivision, the Planning and Zoning Commission shall make the following findings:

<b>GCC 8-6B-7 PLANNED UNIT DEVELOPMENT: REQUIRED FINDINGS</b>
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Compliant			
Yes	No	N/A	City Standards and Conclusion
		X	<p>Finding: The applicant has demonstrated that the proposed development can be initiated within two (2) years of the date of approval.</p> <p>Conclusion: Not applicable due to scope of modification.</p>
		X	<p>Finding: Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which would not be achieved under standard district regulations.</p> <p>Conclusion: Not applicable due to scope of modification.</p>
		X	<p>Finding: The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic and increased densities will not generate traffic in such amounts as to overload the street network outside the PUD.</p> <p>Conclusion: Not applicable due to scope of modification.</p>
		X	<p>Finding: Any proposed commercial development can be justified at the locations proposed.</p> <p>Conclusion: Not applicable due to scope of modification.</p>
X			<p>Finding: Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan, in accordance with the PUD and the adopted policy of the Council.</p> <p>Conclusion The wall height and setback and landscape modifications comply with this finding. The exemptions are warranted by structure design and placement adjacent to the Greenbelt.</p>
		X	<p>Finding: The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.</p> <p>Conclusion: Not applicable due to scope of modification.</p>
X			<p>Finding: The PUD is in general conformance with the comprehensive plan.</p>

			<p>Conclusion: The wall height and setback and landscape modifications are in compliance with this finding. The requests are in conformance with the following Goals, Objectives, and Action Steps of the 2006 Comprehensive Plan:</p> <p>Goal 5: Focus on the River Objective 5.7: Maintain and protect the Greenbelt Action Step 5.7.3: Protect the greenbelt from private development. Enforce codes for private property maintenance, and control of runoff, litter, and debris. Adopt minimum setback requirements for new development.</p> <p>The proposed modifications enhance focus on the River, protect the Greenbelt, and help to mitigate the Greenbelt from the effects of private development.</p>
		X	<p>Finding: The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.</p> <p>Conclusion: Not applicable due to scope of modification.</p>

<b>GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS</b>			
Compliant			City Standards and Conclusion
Yes	No	N/A	
X			<p>Finding: The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district.</p> <p>Conclusion: The fence/wall height and setback and landscape modifications complies this finding. The requests are appropriate the location along the Greenbelt.</p>
X			<p>Finding: The use will be supported by adequate public facilities or services to the surrounding area, or conditions can be established to mitigate adverse impacts.</p> <p>Conclusion: The fence/wall height and setback and landscape modifications complies with this finding. The requests affect the Greenbelt, but conditions can be establish to mitigate adverse impacts.</p>

X			Finding: The use will not unreasonably diminish either the health, safety or welfare of the community.
			Conclusion: The fence/wall height and setback and landscape modifications complies with this finding. The requests affect the health, safety or welfare of users of the Greenbelt, but conditions can be established to protect Greenbelt users.
X			Finding: The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.
			<p>Conclusion: The fence/wall height and setback and landscape modifications complies with this finding. The requests are in conformance with the following Goals, Objectives, and Action Steps of the 2006 Comprehensive Plan:</p> <p style="padding-left: 40px;">Goal 5: Focus on the River Objective 5.7: Maintain and protect the Greenbelt Action Step 5.7.3: Protect the greenbelt from private development. Enforce codes for private property maintenance, and control of runoff, litter, and debris. Adopt minimum setback requirements for new development.</p> <p>The proposed modifications enhance focus on the River, protect the Greenbelt, and help to mitigate the Greenbelt from the effects of private development.</p>

**CONCLUSIONS OF LAW**

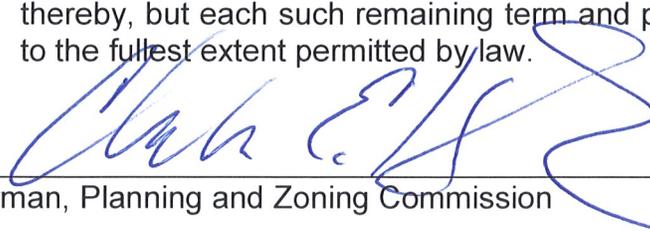
The Planning and Zoning Commission reviewed the application with regard to Garden City Code, Title 8, and based on the conditions required herein, concludes the proposed modification **SATISFIES** the required findings under GCC8-6B-2, and GCC 8-6B-7.

**DECISION**

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and Decision, the Garden City Planning and Zoning Commission hereby recommends **APPROVAL** of the modification to the approval of SUBFY2017-1/PUD2013-2 and subject to the following conditions:

**Site Specific Requirements:**

1. The May 8, 2017 City Council decision shall remain valid and in force. This decision is hereby amended as follows:
  - a. Site specific condition #7 is amended to state "On lots 7-15, shrubs shall be planted to front the greenbelt. The shrubs shall be trimmed to be clear of the greenbelt."
  - b. Site specific condition #12 is amended to state "Two feet (2') setbacks from the greenbelt are allowed to facilitate the retaining wall and fence. No other structure shall be closer than 3' to greenbelt."
  - c. Site specific condition #28a is amended to state "Lots 5 & 7-15 may contain landscaping retaining walls 2' from the edge of pavement of the greenbelt with all other structures 10' or more from Greenbelt easement or 70' from ordinary high water mark."
  - d. Site specific condition #29 is added and states "The retaining wall along the Greenbelt may be up to eight feet (8') in height."
2. All other conditions noted in the May 8, 2017 City Council decision shall remain valid and in force.
3. There is a 15 day right to appeal to City Council. An appeal shall be made on the form provided by the City and filed with the City Clerk within 15 days after the action of the decision.
4. Final decisions are subject to judicial review pursuant to The Idaho Administrative Procedures Act, Chapter 65 Title 67 Idaho Code.
5. 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.
6. A takings analysis pursuant to Idaho Code may be requested on final decisions.
7. 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.

  
Chairman, Planning and Zoning Commission

  
Date

BEFORE THE GARDEN CITY COUNCIL  
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:	)	SUBFY2017-1/PUD2013-2
	)	
Bridge Townhomes PUD Amendment	)	FINDINGS OF FACT,
E. 35 <sup>th</sup> Street	)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho	)	AND
_____	)	DECISION

THIS MATTER, came before the Garden City Council for consideration on September 9, 2019. 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 property owner and applicant is Surfers Paradise LLC.
2. The location of the project is the Bridge Townhomes Subdivision, as noted in the Bridge Townhomes Subdivision Plat.
3. The subject property is 0.835 acres.
4. The initial decision regarding the Planned Unit Development was issued by the City Council on January 15, 2014 (PUDFY2013-2).
5. The original decision regarding the final plat was issued by the City Council on May 8, 2017 (SUBFY2017-1).
6. The project is in the TOD Node and Live Work Create designations of the 2006 Comprehensive Plan Land Use Map.
7. The project is in the M – Mixed Use Zoning District.
8. The application is for the modification of the following site specific conditions of approval for the Planned Unit Development Final Plat (PUDFY2017-1):
  - a. Allow for code requirement waivers for the fence/wall height (GCC 8-4A-3) and landscape requirements (GCC 8-4I); and allow for a further encroachment into required setbacks in deviation of GCC 8-2B-3:
    - (1) Amend site specific condition # 7 to allow the installation of shrubs to front the Greenbelt instead of trees on lots 7-15.

- (2) Amend site specific condition #12 to allow a 2' setback along the Greenbelt for the retaining rock wall and the fence instead of 3' setback.
  - (3) Amend site specific condition 28a to allow lots 5 and 7-15 to contain a retaining wall and fence within 2' from the edge of pavement, instead of landscaping retaining walls 3' from the edge of pavement of the greenbelt with all other structures 10' or more from greenbelt easement or 70' from ordinary high water mark.
  - (4) Add site specific condition #29 to approve an approximate 8' tall wall for the already constructed retaining rock wall.
9. The following sections of the Garden City Development Code applied to the original decision:
- a. Design Review: Title 8-Chapter 4, Articles B and C
  - b. Driveways: Title 8- Chapter 4, Article E
  - c. Erosion Control: Title 4-Chapter 15
  - d. Floodplain: Title 8-Chapter 3, Article B
  - e. Landscaping: Title 8-Chapter 4, Article I
  - f. Open Space: Title 8-Chapter 4, Article L
  - g. Parking: Title 8-Chapter 4, Article D
  - h. Planned Unit Development: Title 8-Chapter 6, Article B
  - i. Public water and sewer systems: Title 6
  - j. Sidewalks: Title 8-Chapter 4, Article E
  - k. Storm drainage and erosion control: Title 4-Chapter 14
  - l. Street design and development standards: Title 8-Chapter 4, Article E
  - m. Sustainable Development Provisions: Title 8-Chapter 4, Article G
  - n. Utilities: Title 8-Chapter 4, Article A
  - o. Zoning District Provisions: Title 8-Chapter 2, Article B
  - p. Subdivisions within a floodplain: Title 8- Chapter 5
  - q. Planned Unit Development and Conditional Use Permit Title 8- Chapter 6, Article B
10. The following sections of the Garden City Development Code apply to the requested modification:
- a. 8-2B-3 Form Standards
  - b. 8-4A-3 Fences and Walls
  - c. 8-4I-4A, Landscaping for Single-Family Residential Units
  - d. 8-6B-7A, Planned Unit Development Purpose
11. A copy of the application and plans were transmitted to interested and affected public agencies and written comments were received from:
- a. None
12. The record contains:
- a. Neighborhood meeting materials;
  - b. Application Materials;
  - c. Agency Referral Notice;

- d. Agency Comments;
  - e. Public Comments;
  - f. Property Owner Notices;
  - g. Legal Advertisements in Idaho Statesman for hearings;
  - h. Affidavits of property posting;
  - i. Staff reports;
  - j. Public Hearing Sign Up Sheets
  - k. Planning and Zoning Commission Recommendation
  - l. Design Committee Recommendation
13. The application was received July 15, 2019.
  14. The applicant was scheduled for a City Council Public Hearing on September 9, 2019.
  15. The City Council Public Hearing was held within sixty (60) days of receipt of the application.
  16. A public hearing notice for the proposed application was published on July 19, 2019, and on July 16, 2019, notice was mailed to all property owners within a 300-foot radius of the said property in compliance with the public notice requirements of Section 8-6A-7 of the Garden City Municipal Code.
  17. The applicant provided an affidavit that the property was posted on premise in accordance with Garden City Code.
  18. On August 19, 2019, the Design Review Committee recommended approval of the request.
  19. On August 21, 2019, the Planning and Zoning Commission recommended approval of the request.
  20. During the public hearing on September 9, 2019:
    - a. The applicant, Todd Weltner represented the request.
    - b. Staff, Jenah Thornborrow, presented the staff report.
    - c. Public testimony in favor was received by Gary Asin, Jason Jones, Bryant Forrester, Douglas Gibson, Jim Neill, Nathan Fox, Molly Armpriest, Kristin Sherman, Chris Reiten, Brooke VanDam, Steven Johnson, Suzanne Michelle, Brian Vetter, Holly Little, and Hannah Ball. Testimony in opposition was received from Victor Myer, Nancy Baskin, Adrie Somalinog, and Patrick Little.
    - d. Todd Weltner provided a rebuttal.
    - e. The testimony was closed.
    - f. City Council discussion included the following points:

- (1) Aesthetics of the wall are not the issue.
- (2) The process was not followed.
- (3) The question is whether the application meets regulations.
- (4) The applicant should have known that they were constructing the wall outside of required setbacks.
- (5) No evidence has been presented that the code deviation is warranted.
- (6) An encroachment 1/3 into the 3' setback is substantial.
- (7) Encroachment can create a safety hazard for greenbelt users (specifically cyclist and unsteady walkers)
- (8) Revised landscaping plan creates an area that may not be maintained.
- (9) The City Council denied the request on a 3/0 vote.

### **CONCLUSION OF LAW**

In consideration of a modification request to the decision in SUBFY2017-1, the City Council provides the following analysis and conclusion of law. Pursuant to Garden City Code §§ 8-6B-7.E and 8-6B-2.D, in order to grant approval of a planned unit development, the City Council must make certain findings, including the following:

Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which would not be achieved under standard district regulations;

The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic and increased densities will not generate traffic in such amounts as to overload the street network outside the PUD;

Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan, in accordance with the PUD and the adopted policy of the council;

The PUD is in general conformance with the comprehensive plan;

The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district;

The use will be supported by adequate public facilities or services to the surrounding area, or conditions can be established to mitigate adverse impacts;

The use will not unreasonably diminish either the health, safety or welfare of the community; and

The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.

Based on the record that was presented on September 9, 2019, the City Council is unable to make the above required findings.

Pursuant to the applicant's previous request, the City Council allowed deviations from Garden City's Development Code on May 8, 2017 but required several site specific conditions of approval. Now, the applicant is requesting more deviations from the Garden City Development Code and the site specific conditions of approval that were required on May 8, 2017. However, other than some conclusory statements, the applicant did not address how his requested modifications would comply with G.C.C. §§ 8-6B-7.E and 8-6B-2.D. It is the applicant's burden to make this showing.

The sufficiency of the record to support the modification request was specifically mentioned by Councilmember Page during deliberations, when he expressed disagreement with the Planning and Zoning Commission's Findings of Fact and Conclusions of Law. Speaking about a required finding for modification pursuant to G.C.C. § 8-6B-7.E, Councilmember Page stated, "I don't think anything in the record, none of the evidence before me, shows that is warranted." When addressing whether the modification would be in conformance with the comprehensive plan, which is another required finding pursuant to G.C.C. § 8-6B-7.E, Councilmember Page questioned how the modification would protect the greenbelt from private development.

Councilmember Souza agreed with the comments and there was no dissent by Council President Beaumont. Mayor Evans indicated that there was nothing to prevent

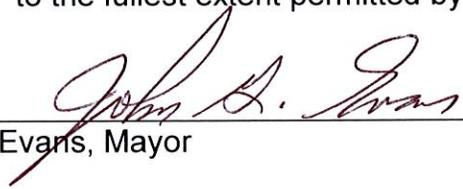
the applicant from coming back with a modified request or a plan on how to achieve substantial compliance with the existing conditions.

As the project is not in compliance with the existing conditions of approval for the Planned Unit Development, the current request to modify the Planned Unit Development should not be granted based on the existing record. The City Council has reviewed the application with regard to the record and Garden City Code, Title 8, and based on the conditions required but not followed, concludes that it is unable to make the required findings pursuant to §§ 8-6B-7.E and 8-6B-2.D.

### DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, the Garden City Council denies the modification request for SUBFY2017-1/PUDFY2013-2. The following apply to this decision:

1. All conditions noted in the May 8, 2017 City Council decision shall remain valid and in force.
2. Final decisions are subject to judicial review per Chapter 67-65 Idaho Code.
3. 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.
4. A takings analysis pursuant to Idaho Code may be requested on final decisions.
5. 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 Evans, Mayor

9-23-19  
\_\_\_\_\_  
Date



## DEVELOPMENT SERVICES DEPARTMENT

6015 Glenwood Street ■ Garden City, Idaho 83714 ■ [www.gardencityidaho.org](http://www.gardencityidaho.org)  
Phone 208/472-2921 ■ Fax 208/472-2996 ■ [planning@gardencityidaho.org](mailto:planning@gardencityidaho.org)

November 6, 2019

Dear Property Owner:

This is an Official Notice of a Public Hearing regarding a property near your own. You are invited to attend a public hearing of the Garden City City Council on **Tuesday, November 12, 2019 at 6:00pm** and offer your testimony for consideration at Garden City City Hall, 6015 N. Glenwood St., Garden City, ID, 83714. **Anyone who submits written or oral testimony has the right to appeal all or a portion of the decision.** Applicants or affected property owners shall have no more than fourteen (14) days after a final decision is rendered to request reconsideration by the final decision-maker. If you wish to offer testimony on this item and are unable to attend this meeting, you may submit your comments to the Garden City Development Services office and they will be entered in the public record on your behalf. *Due to sunshine laws we request that the applicant or public do not contact the decision makers directly. Please either submit your comments through staff or on the record at the public hearing. Auxiliary aids or services for persons with disabilities are available upon request. Please call Development Services three (3) or more days prior to this public meeting so that arrangements can be made.*

### APPLICATION:

**SUBFY2017-1/PUD2013-2:** Reconsideration of the City Council's decision to deny amendments to application SUBFY2017-1/PUD2013-2 for landscaping and wall improvements along the Greenbelt. The project is located at E. 35<sup>th</sup> St. and N. Prospect Ln, Garden City, ID 83714.

The application materials can be found online at [www.gardencityidaho.org](http://www.gardencityidaho.org) in the correlating date of the hearing in the 'Calendar/Agendas' link on the home page. A staff report and draft decision document will also be available one week prior to the hearing.

### What to Expect at a Public Hearing:

Each application on the agenda will adhere to the following procedure:

1. The applicant will have the ability to represent the application (default 15 minute time limit).
2. A staff member will present the *Staff Report* (default 15 minute time limit).
3. The Chair will open the Public Hearing during which time you will have the ability to give testimony (default 3 minute time limit per person and up to 15 minutes time limit for spokesman in cases where spokesmen are pre-authorized by the chairman time limit).
4. The applicant will then be able to give rebuttal testimony.
5. Close of Public Hearing and discussion among decision making body.
6. The decision makers may approve, deny, continue for additional deliberations or make a recommendation to City Council.

### General Rules for Testimony:

1. No person shall be permitted to testify or speak before the hearing agency at a public hearing unless such person has signed his name and written his contact address on sign-up sheets to be provided by the city. This requirement shall not apply to staff or technical witnesses directed by the Chairperson/Mayor to give evidence or information to the hearing agency.
2. No person shall be permitted to speak before the Committee/Council/Commission at a public hearing until such person is recognized by the chairperson.
3. Testimony should directly address the subject at hand.
4. Testimony should not be repetitious with other entries into the record.

5. Testimony should not be personally derogatory.
6. Testimony should comply with time restrictions established by the hearing agency.
7. If oral testimony fails to comply with the aforementioned standards, the chairperson may declare such testimony out of order and require it to cease.
8. All public hearing proceedings shall be recorded electronically and all persons speaking at such public hearings shall speak before a microphone in such a manner as will assure that the recorded testimony or remarks will be complete.

**Standards for Written Testimony:**

Written testimony and exhibits from the public to be admitted at a public hearing shall comply with the following standards:

1. Written testimony and exhibits must be submitted at least seven (7) calendar days prior to the date of the pertinent public hearing. This provision may be varied through notice to potential hearing participants.
2. Written testimony should include the signature and address of the submitter.
3. Written testimony should address the issue at hand.
4. Written testimony should not be personally derogatory.
5. If written testimony or an exhibit fails to comply with the aforementioned standards, the Chairperson/Mayor or Committee/Council/Commission may declare such testimony inadmissible.

If you wish to give testimony and cannot attend the public hearings/meeting please submit the following form, or any additional written testimony containing the following information below to Garden City Development Services no later than **November 5<sup>th</sup>, 2019**.

**Garden City Development Services, 6015 N. Glenwood St., Garden City, Idaho 83714**

**SUBFY2017-1/PUD2013-2 – Reconsideration**

Your Name \_\_\_\_\_ Date \_\_\_\_\_

Your Physical Address: \_\_\_\_\_

**(Please select)** I wish to be kept informed of any additional future meeting dates:

Yes  No

**(Please select)** Regarding this application I:

Support the Application  Am Neutral  Oppose the Request

Comments:

---



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Signature: \_\_\_\_\_

PARCEL	PRIMOWNER	ADDCONCAT	STATCONCAT
R1080200010	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200020	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200030	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200040	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200050	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200060	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200070	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200080	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200090	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200100	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200110	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200120	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200130	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200140	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200150	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200160	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200170	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200180	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200190	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200200	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200210	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200220	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200230	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200240	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1080200250	SURFERS PARADISE LLC	300 E 35TH ST	GARDEN CITY, ID 83714-0000
R1277110010	CENICEROS ROBERTO	315 E 36TH ST	GARDEN CITY, ID 83714-0000
R1277110020	LANDRY LOUIS E	211 E 33RD ST	GARDEN CITY, ID 83714-0000
R1277110030	SPRING MOUNTAIN PROPERTIES LLC	2006 S EAGLE RD	MERIDIAN, ID 83642-0000
R1277110040	WATSON CHRISTOPHER DAVID	327 E 36TH ST	GARDEN CITY, ID 83714-0000
R1277110050	G C CANALSIDE DEVELOPMENT LLC	211 E 33RD ST	GARDEN CITY, ID 83714-0000
R1277110060	LANDRY LOUIS E	211 E 33RD ST	GARDEN CITY, ID 83714-0000
R1277110070	G C CANALSIDE DEVELOPMENT LLC	211 E 33RD ST	GARDEN CITY, ID 83714-0000
R2734520163	GOSSETT STEVEN P	312 E 36TH ST	GARDEN CITY, ID 83714-0000
R2734540385	INGLIS ENTERPRISES LLC	5695 KRISCLIFFE CT	BOISE, ID 83704-2053
R2734540401	SPEARS KIM	2256 S PHILLIPPI ST	BOISE, ID 83705-0000
R2734540411	SPEARS KIM	2256 S PHILLIPPI ST	BOISE, ID 83705-0000
R2734540425	STP LLC	457 N LONGHORN ST	EAGLE, ID 83616-0000
R2734540440	VICTOR MYERS INVESTMENTS LLC	314 E 35TH ST	GARDEN CITY, ID 83714-0000
R2734540481	GALLEGOS KENNETH M	10335 W COUNTRY SQUIRE LN	BOISE, ID 83704-0000
R2734540491	GALLEGOS KENNETH M	10335 W COUNTRY SQUIRE LN	BOISE, ID 83704-0000
R2734540501	URBAN WILLOW LLC	210 W MURRAY ST	BOISE, ID 83714-0000
R2734540550	URBAN WILLOW LLC	PO BOX 7156	BOISE, ID 83707-1156

R2734540570	URBAN WILLOW LLC	210 W MURRAY ST	BOISE, ID 83714-0000
R2734540580	URBAN WILLOW LLC	PO BOX 7156	BOISE, ID 83707-1156
R2734540604	DAY LLC	1866 S THACKER RD	HAMMETT, ID 83627-0000
R2734540614	DAY LLC	1866 S THACKER RD	HAMMETT, ID 83627-0000
R2734540655	YOUNG LUCY	309 E 35TH ST	GARDEN CITY, ID 83714-6516
R2734540670	SMITH EVA MAE	307 E 35TH ST	GARDEN CITY, ID 83714-0000
R2734540680	CHALFANT FRANK E SR	301 E 35TH ST	GARDEN CITY, ID 83714-6516
R2734541500	URBAN WILLOW LLC	PO BOX 7156	BOISE, ID 83707-1156
R2734541520	URBAN WILLOW LLC	PO BOX 7156	BOISE, ID 83707-1156
R9242370010	SWANSON TODD K	370 S HAINES PL	BOISE, ID 83712-0000
R9242370040	ASIN GARY C	1714 W HAMPTON BAY DR	EAGLE, ID 83616-0000
R9242370060	WATERFRONT DISTRICT HOA INC	PO BOX 2654	EAGLE, ID 83616-0000
R9242370070	WIRKUS KARL	3608 N PROSPECT WAY	GARDEN CITY, ID 83714-0000
R9242370350	WATERFRONT DISTRICT HOA INC	PO BOX 2654	EAGLE, ID 83616-0000
R9242370930	ENERGREEN DEVELOPMENT COMPANY LLC	PO BOX 291	MCCALL, ID 83638-0000
R9242371180	LEWIS SHANNON K	318 E 36TH ST	GARDEN CITY, ID 83714-0000
R9242371195	KJAR CRAIG & CAROL TRUST	332 E 36TH ST	GARDEN CITY, ID 83714-0000
R9242371205	ORCHARD DANIELLE	366 E 36TH ST	GARDEN CITY, ID 83714-0000
R9242371220	BARTHOLOW MATTHEW KIENE	380 E 36TH ST	GARDEN CITY, ID 83714-0000
R9242371230	JENSEN PROPERTIES LLC	7 WHITEHAWK CIR	BOISE, ID 83716-0000
R9242371240	WATERFRONT DISTRICT HOA INC	PO BOX 2654	EAGLE, ID 83616-0000
R9242860010	MCGRATH CHRISTOPHER B	25384 HERRING CREEK DR	CHANTILLY, VA 20152-0000
R9242860020	ETHERINGTON JOHN	3598 N PROSPECT WAY	GARDEN CITY, ID 83714-0000
R9242860030	ARNOLD LYLE DAVID	3592 N PROSPECT WAY	GARDEN CITY, ID 83714-0000
R9242860040	WATERFRONT DISTRICT HOA INC	PO BOX 2654	EAGLE, ID 83616-0000
R9242860050	PONTIUS ROBERT G	3590 N PROSPECT WAY	GARDEN CITY, ID 83714-0000
R9242860060	COMPTON JULIE	3594 N PROSPECT WAY	GARDEN CITY, ID 83714-0000
R9242860070	REYNOLDS DONALD KEITH	3596 N PROSPECT WAY	GARDEN CITY, ID 83714-0000
R9242860080	CASPER ALLISON E	3600 N PROSPECT WAY	GARDEN CITY, ID 83714-0000
R9242860090	SWAGGART LINCOLN M	3602 N PROSPECT WAY	GARDEN CITY, ID 83714-0000
R9242860100	HECKLER MICHAEL P	3606 N PROSPECT WAY	GARDEN CITY, ID 83714-0000
S1004325655	CITY OF BOISE (BOISE PARKS & RECREATION)	1104 W ROYAL BLVD	BOISE, ID 83706-0000
S1005141850	STATE OF IDAHO (PARKS & RECREATION)	5657 WARM SPRINGS AVE	BOISE, ID 83712-8752

**From:** [building](#)  
**To:** [Todd Weltner](#)  
**Cc:** [ktrout@trout-law.com](mailto:ktrout@trout-law.com)  
**Subject:** SUBFY2017-1 PUD2013-2 Reconsideration Notice  
**Date:** Wednesday, October 23, 2019 4:03:00 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[SUBFY2017-1 PUD2013-2 RECONSIDERATION NOTIFICATION.pdf](#)

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Todd,

Please see the attached notification letter concerning your reconsideration hearing. A copy of this letter has been sent to you by mail.

Thank you,  
Elizabeth



**Garden City Development Services  
Building**

**City of Garden City**

p: 208-472-2921

f: 208-472-2926

a: 6015 Glenwood Street, Garden City, ID 83714

w: [www.gardencityidaho.org](http://www.gardencityidaho.org) e: [building@gardencityidaho.org](mailto:building@gardencityidaho.org)  
Window Hours: 9a.m. - 12p.m. and 1p.m. - 3:30p.m.





## DEVELOPMENT SERVICES DEPARTMENT

6015 Glenwood Street ■ Garden City, Idaho 83714  
Phone 208/472-2921 ■ Fax 208/472-2996 ■  
[www.gardencityidaho.org](http://www.gardencityidaho.org)

October 23, 2019

Surfer's Paradise, LLC  
Attn: Todd Weltner  
300 E. 35<sup>th</sup> Street  
Garden City, Idaho 83714

Delivery via e-mail to [todd@vertical-corp.com](mailto:todd@vertical-corp.com) and via USPS

Re: Reconsideration of SUBFY2017 – 1 / PUD2013 – 2

Dear Todd,

This letter is to inform you that your request for reconsideration of application SUBFY2017-1 / PUD2013-2 has been granted by the Garden City Council. A hearing on this matter has been scheduled to be heard by the Garden City Council on **November 12, 2019, at 6:00 p.m.** The hearing will be held in the City Council Chambers of Garden City Hall, 6015 N. Glenwood, Garden City, Idaho 83714.

Between now and the scheduled hearing we will be sending notice to stakeholders requesting review of your project, providing legal notifications and reviewing your project for compliance with applicable regulations. Due to open meeting laws it is requested that the applicant does not contact the decision makers off the record. All documentation and comments should be submitted through staff or at the Public Hearing.

### Remaining requirements:

You are responsible for completing the following items prior to the scheduled hearing:

- The site shall be posted with a Public Hearing Notice sign by **November 2, 2019** in accordance with Garden City Code 8-6A-7.
- An affidavit of property posting and photos of the sign shall be submitted in accordance with Garden City Code 8-6A-7 by **November 5, 2019.**

### What to expect at a hearing:

- You or your representative must be present at the hearing to represent the reconsideration. You may provide a presentation such as a Power Point.
- The hearing procedure will consist of:
  - The hearing item will be announced;
  - The applicant presents the reconsideration;

- Staff presents the staff report;
- Public testimony is taken on the reconsideration;
- The applicant has an opportunity to provide rebuttal testimony;
- Public testimony is closed, and the City Council deliberates and decides on the reconsideration;

Sincerely,  
Development Services Department

CC:  
Kim J. Trout, Applicant's Legal Counsel  
Charles Wadams, Garden City Attorney  
File



## DEVELOPMENT SERVICES DEPARTMENT

6015 Glenwood Street ■ Garden City, Idaho 83714  
Phone 208/472-2921 ■ Fax 208/472-2996 ■  
[www.gardencityidaho.org](http://www.gardencityidaho.org)

November 6, 2019

Surfer's Paradise, LLC  
Attn: Todd Weltner  
300 E. 35<sup>th</sup> Street  
Garden City, Idaho 83714

Delivery via e-mail to [todd@vertical-corp.com](mailto:todd@vertical-corp.com) and via USPS

Re: Reconsideration of SUBFY2017 – 1 / PUD2013 – 2

Dear Todd,

This letter is to inform you that your request for reconsideration of application SUBFY2017-1 / PUD2013-2 has been granted by the Garden City Council. A hearing on this matter has been scheduled to be heard by the Garden City Council on **November 12, 2019, at 6:00 p.m.** The hearing will be held in the City Council Chambers of Garden City Hall, 6015 N. Glenwood, Garden City, Idaho 83714.

Between now and the scheduled hearing we will be sending notice to stakeholders requesting review of your project, providing legal notifications and reviewing your project for compliance with applicable regulations. Due to open meeting laws it is requested that the applicant does not contact the decision makers off the record. All documentation and comments should be submitted through staff or at the Public Hearing.

### Remaining requirements:

You are responsible for completing the following items prior to the scheduled hearing:

- The site shall be posted with a Public Hearing Notice sign by **November 2, 2019** in accordance with Garden City Code 8-6A-7.
- An affidavit of property posting and photos of the sign shall be submitted in accordance with Garden City Code 8-6A-7 by **November 5, 2019.**

### What to expect at a hearing:

- You or your representative must be present at the hearing to represent the reconsideration. You may provide a presentation such as a Power Point.
- The hearing procedure will consist of:
  - The hearing item will be announced;
  - The applicant presents the reconsideration;

- Staff presents the staff report;
- Public testimony is taken on the reconsideration;
- The applicant has an opportunity to provide rebuttal testimony;
- Public testimony is closed, and the City Council deliberates and decides on the reconsideration;

Sincerely,  
Development Services Department

CC:  
Kim J. Trout, Applicant's Legal Counsel  
Charles Wadams, Garden City Attorney  
File

**From:** [building](#)  
**Bcc:** [Abe Blount](#); [ACHD Planning Review](#); [Alicia Martin](#); [Bill Bosworth](#); [building](#); [C. Miller](#); [C. Riddle](#); [Caleb Lakey](#); [Charissa Bujak](#); [Charles Wadams](#); [Christian Samples](#); [Colin Schmidt](#); [Connie Sol](#); [D. Sperfma](#); [Daniel Pavlink](#); [Darren Fluke](#); [Elfreda Higgins](#); [Fairview Acres Latera WUA](#); [Greg J. Martinez](#); [Info](#); [ITD Development Services District 3](#); [Jackson Heim](#); [James Page](#); [Jamie Huff](#); [Jeff Souza](#); [Jenah Thornborrow](#); [Joe Canning Work](#); [John Evans](#); [Kevin Wallis](#); [L. Badigia](#); [Lanette Daw](#); [Lindsey Pettyjohn Library](#); [Lisa Leiby](#); [M. reno](#); [M. Singlet](#); [Mack](#); [Mark Jones](#); [Mark Wasdahl](#); [Nadine Curtis](#); [New Dry Creek](#); [Olesya Durfey](#); [Pam Beaumont](#); [Pam Beaumont Home](#); [planning](#); [Project Manager](#); [PVC1953](#); [Rick Allen](#); [Ron Johnson](#); [S. Bryce Farris \(bryce@sawtoothlaw.com\)](#); [Shelley](#); [Susanna Smith](#); [T. Laws](#); [Tom Patterson](#); [Troy Vaughn](#); [WBSDMB](#); [Wed 2 No 1](#); [Yulia](#)  
**Subject:** City of Garden City Agency Notice  
**Date:** Wednesday, October 23, 2019 4:15:00 PM

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## **CITY OF GARDEN CITY AGENCY NOTICE**

Pursuant to Garden City Code 8-6A-7, you are hereby provided notice of the following application:

- A. **SUBFY2017-1/PUD2013-2:** Reconsideration of the City Council's decision to deny amendments to application SUBFY2017-1/PUD2013-2 for landscaping and wall improvements along the Greenbelt. The project is located at E. 35<sup>th</sup> St. and N. Prospect Ln, Garden City, ID 83714: [LINK](#)

Please send comments to [planning@gardencityidaho.org](mailto:planning@gardencityidaho.org) by **November 7<sup>th</sup>, 2019**. If you do not respond by this date, your response will be considered "No Comment." Comments should also be addressed to the applicant.

Comments may also be mailed to:

City of Garden City

Attn: Development Services

6015 N. Glenwood

Garden City, Idaho 83714

Please note it is the responsibility of those interested and/or affected jurisdictions to schedule their own applicable meeting. In some cases, Garden City's applications are processed before other jurisdictions' response, and the conditions of approval state that the approval is subject to statutory requirements of affected other jurisdictions



## DEVELOPMENT SERVICES DEPARTMENT

6015 Glenwood Street ■ Garden City, Idaho 83714 ■ [www.gardencityidaho.org](http://www.gardencityidaho.org)  
Phone 208/472-2921 ■ Fax 208/472-2996 ■ [planning@gardencityidaho.org](mailto:planning@gardencityidaho.org)

**November 4, 2019**

**Dear Interested Party:**

This is an Official Notice of a Public Hearing regarding a property near your own. You are invited to attend a public hearing of the Garden City City Council on **Tuesday, November 12, 2019 at 6:00pm** and offer your testimony for consideration at Garden City City Hall, 6015 N. Glenwood St., Garden City, ID, 83714. **Anyone who submits written or oral testimony has the right to appeal all or a portion of the decision.** If you wish to offer testimony on this item and are unable to attend this meeting, you may submit your comments to the Garden City Development Services office and they will be entered in the public record on your behalf. *Due to sunshine laws we request that the applicant or public do not contact the decision makers directly. Please either submit your comments through staff or on the record at the public hearing. Auxiliary aids or services for persons with disabilities are available upon request. Please call Development Services three (3) or more days prior to this public meeting so that arrangements can be made.* You are receiving this notice as an interested party of record.

### **APPLICATION:**

**SUBFY2017-1/PUD2013-2:** Reconsideration of the City Council's decision to deny amendments to application SUBFY2017-1/PUD2013-2 for landscaping and wall improvements along the Greenbelt. The project is located at E. 35<sup>th</sup> St. and N. Prospect Ln, Garden City, ID 83714.

The application materials can be found online at [www.gardencityidaho.org](http://www.gardencityidaho.org) in the correlating date of the hearing in the 'Calendar/Agendas' link on the home page. A staff report and draft decision document will also be available one week prior to the hearing.

### **What to Expect at a Public Hearing:**

Each application on the agenda will adhere to the following procedure:

1. The applicant will have the ability to represent the application (default 15 minute time limit).
2. A staff member will present the *Staff Report* (default 15 minute time limit).
3. The Chair will open the Public Hearing during which time you will have the ability to give testimony (default 3 minute time limit per person and up to 15 minutes time limit for spokesman in cases where spokesmen are pre-authorized by the chairman time limit).
4. The applicant will then be able to give rebuttal testimony.
5. Close of Public Hearing and discussion among decision making body.
6. The decision makers may approve, deny, continue for additional deliberations or make a recommendation to City Council.

### **General Rules for Testimony:**

1. No person shall be permitted to testify or speak before the hearing agency at a public hearing unless such person has signed his name and written his contact address on sign-up sheets to be provided by the city. This requirement shall not apply to staff or technical witnesses directed by the Chairperson/Mayor to give evidence or information to the hearing agency.
2. No person shall be permitted to speak before the Committee/Council/Commission at a public hearing until such person is recognized by the chairperson.
3. Testimony should directly address the subject at hand.
4. Testimony should not be repetitious with other entries into the record.
5. Testimony should not be personally derogatory.

6. Testimony should comply with time restrictions established by the hearing agency.
7. If oral testimony fails to comply with the aforementioned standards, the chairperson may declare such testimony out of order and require it to cease.
8. All public hearing proceedings shall be recorded electronically and all persons speaking at such public hearings shall speak before a microphone in such a manner as will assure that the recorded testimony or remarks will be complete.

**Standards for Written Testimony:**

Written testimony and exhibits from the public to be admitted at a public hearing shall comply with the following standards:

1. Written testimony and exhibits must be submitted at least seven (7) calendar days prior to the date of the pertinent public hearing. This provision may be varied through notice to potential hearing participants.
2. Written testimony should include the signature and address of the submitter.
3. Written testimony should address the issue at hand.
4. Written testimony should not be personally derogatory.
5. If written testimony or an exhibit fails to comply with the aforementioned standards, the Chairperson/Mayor or Committee/Council/Commission may declare such testimony inadmissible.

If you wish to give testimony and cannot attend the public hearings/meeting please submit the following form, or any additional written testimony containing the following information below to Garden City Development Services no later than **November 12th, 2019**.

**Garden City Development Services, 6015 N. Glenwood St., Garden City, Idaho 83714**

**SUBFY2017-1/PUD2013-2 – Reconsideration**

Your Name \_\_\_\_\_ Date \_\_\_\_\_

Your Physical Address: \_\_\_\_\_

**(Please select)** I wish to be kept informed of any additional future meeting dates:

Yes  No

**(Please select)** Regarding this application I:

Support the Application  Am Neutral  Oppose the Request

Comments:

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Signature: \_\_\_\_\_

**From:** [Christian Samples](#)  
**To:** [Christian Samples](#)  
**Subject:** Interested Party Notice - Reconsideration of SUBFY2017-1/PUD2013-2  
**Date:** Monday, November 4, 2019 11:43:28 AM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[SUBFY2017-1 PUD2013-2 INTERESTED PARTY NOTICE.pdf](#)

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Good morning, you are receiving this notice as an interested party for application SUBFY2017-1 / PUD2013 – 2 (Bridge Townhomes). This is a hearing for the reconsideration of the 9/9/2019 City Council decision to deny amendments to this application. The hearing will be held on November 12, 2019 at 6:00 pm at Garden City Hall. The notice is attached to this e-mail.

If you do not wish to be an interested party, please let me know and I will remove you from future mailings.

Thanks,



Chris Samples, AICP

*Associate Planner*

Development Services, **Garden City**

p: 208-472-2922

a: 6015 Glenwood Street, Garden City, ID 83714

w: [www.gardencityidaho.org](http://www.gardencityidaho.org) e: [csamples@gardencityidaho.org](mailto:csamples@gardencityidaho.org)



## LEGAL NOTICE OF PUBLIC HEARINGS

PURSUANT TO ESTABLISHED PROCEDURE, NOTICE IS HEREBY GIVEN THAT THE GARDEN CITY COUNCIL WILL HOLD A PUBLIC HEARING AT 6:00 P.M. ON TUESDAY, NOVEMBER 12, 2019, AT GARDEN CITY HALL, 6015 GLENWOOD STREET, GARDEN CITY, IDAHO TO CONSIDER A REQUEST FOR:

**SUBFY2017-1/PUD2013-2:** Reconsideration of the City Council's decision to deny amendments to application SUBFY2017-1/PUD2013-2 for landscaping and wall improvements along the Greenbelt. The project is located at E. 35th St. and N. Prospect Ln, Garden City, ID 83714.

We are pleased to make reasonable accommodations for members of the public who are disabled or require special assistance. For those requiring special arrangements for any meeting, please contact our office at 472-2921, at least 72 hours prior to the time of the meeting. Due to sunshine laws it is requested that the applicant and public do not contact the decision makers directly. All documentation and comments should be submitted through staff or at the Public Hearing.

Publish 10.26.2019

# Idaho Statesman

Keeping you connected | IdahoStatesman.com

## Order Confirmation

**Customer**

GARDEN CITY CITY OF

**Customer Account**

264046

**Customer Address**

6015 GLENWOOD ST  
GARDEN CITY ID 837141347 USA

**Customer Phone**

208-472-2900

**Customer Fax****Sales Rep**

jhildreth@idahostatesman.com

**Payor Customer**

GARDEN CITY CITY OF

**Payor Account**

264046

**Payor Address**

6015 GLENWOOD ST  
GARDEN CITY ID 837141347 USA

**Payor Phone**

208-472-2900

**Customer EMail**

lleiby@gardencityidaho.org

**Order Taker**

loperetz@mcclatchy.com

<u>PO Number</u>	<u>Payment Method</u>	<u>Blind Box</u>	<u>Tear Sheets</u>	<u>Proofs</u>	<u>Affidavits</u>
legal notice	Invoice		1	0	1

<u>Net Amount</u>	<u>Tax Amount</u>	<u>Total Amount</u>	<u>Payment Amount</u>	<u>Amount Due</u>
\$51.20	\$0.00	\$51.20	\$0.00	\$51.20

<u>Ad Order Number</u>	<u>Order Source</u>	<u>Ordered By</u>	<u>Special Pricing</u>
0004432857		Christian Samples	
<u>Invoice Text</u>			<u>Promo Type</u>
legal notice			
<u>Package Buy</u>			<u>Materials</u>

### Ad Order Information

<u>Ad Number</u>	<u>Ad Type</u>	<u>Production Method</u>	<u>Production Notes</u>
0004432857-01	BOI-Legal Display	New Build	

<u>External Ad Number</u>	<u>Ad Attributes</u>	<u>Ad Released</u>	<u>Pick Up</u>
		No	

<u>Ad Size</u>	<u>Color</u>
2 X 2.00"	

<u>Product</u>	<u>Placement</u>	<u>Times Run</u>	<u>Schedule Cost</u>
BOI-Idaho Statesman	0300 - Legals Classified	1	\$51.20

<u>Run Schedule Invoice Text</u>	<u>Position</u>
	0301 - Legals & Public Notices

**Run Dates**  
10/26/2019



## Garden City PUBLIC HEARING NOTICE

Garden City Public Hearing

City of Garden City

780 527-1818 Garden City will host a public hearing on

Nov. 12, 2014 at 6:00pm

AGENDA: 1) Public Hearing

2) City Council Meeting

3) City Council Meeting

4) City Council Meeting

5) City Council Meeting

6) City Council Meeting

7) City Council Meeting

8) City Council Meeting

9) City Council Meeting

10) City Council Meeting

11) City Council Meeting

12) City Council Meeting

13) City Council Meeting

14) City Council Meeting

15) City Council Meeting

16) City Council Meeting

17) City Council Meeting

18) City Council Meeting

19) City Council Meeting

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22) City Council Meeting

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29) City Council Meeting

30) City Council Meeting

31) City Council Meeting

32) City Council Meeting

33) City Council Meeting

34) City Council Meeting

35) City Council Meeting

36) City Council Meeting

37) City Council Meeting

38) City Council Meeting

39) City Council Meeting

40) City Council Meeting

41) City Council Meeting

42) City Council Meeting

# Garden City PUBLIC HEARING NOTICE

Garden City Public Hearing ing

**THE CITY OF Garden City** will hold a public hearing on  
Nov. 12, 2019 at 6:00pm

**PURPOSE:** PUD Modification

**LOCATION:** 359 E. 36th Street

**APPLICATION BY:** Jane Suggs/WHPacific (208) 275-8729

Contact the City Planner at 472-2921 with any questions.

**Garden City  
PUBLIC HEARING NOTICE**

FOR THE PROPOSED  
REVISIONS TO THE  
GARDEN CITY ZONING ORDINANCE

DATE: 10/13/2014  
TIME: 6:00 PM - 8:00 PM  
LOCATION: GARDEN CITY COMMUNITY CENTER  
1000 W. 10TH ST. GARDEN CITY, MO 64303

GREEN ST



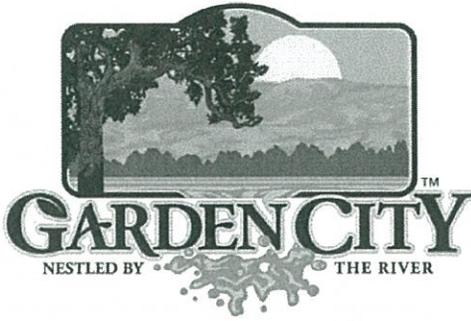
ADAMS ST

STOP

Garden City  
PUBLIC HEARING NOTICE

Public Hearing Notice  
The following information is provided for your information regarding the proposed project and the public hearing process.

Project Name: [Illegible]  
Project Location: [Illegible]  
Public Hearing Date: [Illegible]  
Public Hearing Time: [Illegible]  
Public Hearing Location: [Illegible]



6015 Glenwood Street • Garden City, Idaho 83714  
Phone 208/472-2921 • Fax 208/472-2926 • www.gardencityidaho.org

## Affidavit of Property Posting

I, (name) Todd W. Wetner do hereby attest that the property located at (site address) 3497 N. Prosper Ln., Garden City, Idaho, was posted on (date) 10-31-19. This posting was for (application number) SUBFY 2017-1 / PUD 2013-2. The date of posting was no less than ten (10) days prior to the public hearing for which the application is to be heard in conformance with Section 8-6A-7 of the Garden City Code. The property was posted in compliance with Garden City standards of form, size, lettering, content, and placement for posting property for public notice.

*\*must submit clear and legible photos of the property posting with affidavit\**

BY: [Signature]  
TITLE MEMBER

State of Idaho)  
                  )SS  
County of Ada)

On this 4<sup>th</sup> day of November (month), 2019 (year), before me, the undersigned, a Notary Public in and for said State, personally appeared Todd A. Wetner (person responsible for posting) known or identified to me to be the person whose name is subscribed to be the foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Katie Gerasimas  
Notary Public for Idaho

Residing at Boise, ID  
Commission Expires: 8/13/24



SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 Surfers Paradise LLC  
 Attn: Todd Weltner  
 300 E. 35th Street  
 Garden City, ID 83714



9590 9402 5033 9092 2567 23

2. Article Number (Transfer from service label)  
 7010 1870 0002 8402 2006

A. Signature  
 x *Kate Gercasinos*  Agent  Address

B. Received by (Printed Name)  
 Kate Gercasinos

C. Date of Delivery  
 OCT 28 2019

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below.  No

3. Service Type
- Adult Signature
  - Adult Signature Restricted Delivery
  - Certified Mail®
  - Certified Mail Restricted Delivery
  - Collect on Delivery
  - Collect on Delivery Restricted Delivery
  - Mail Restricted Delivery (0)
  - Priority Mail Express®
  - Registered Mail™
  - Registered Mail Restricted Delivery
  - Return Receipt for Merchandise
  - Signature Confirmation™
  - Signature Confirmation Restricted Delivery

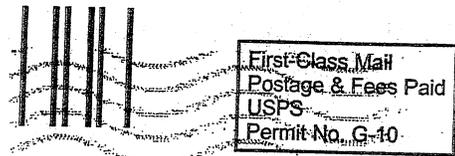
PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

USPS TRACKING #



9590 9402 5033 9092 2567 23



United States Postal Service

• Sender: Please print your name, address, and ZIP+4® in this box•

CITY OF GARDEN CITY  
 6015 GLENWOOD ST.  
 GARDEN CITY, IDAHO 83714

