

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

In the Matter of:)	PUDFY2021-0001
)	
Planned Unit Development)	
116, 118, and E. 33 rd Street)	FINDINGS OF FACT
Garden City, Ada County, Idaho)	CONCLUSIONS OF LAW,
)	AND DECISION
_____)	

THIS MATTER came before the Garden City Council for consideration on September 13, 2021. The Garden City Council reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, the Garden City Council makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT

1. The applicant is Jeff Hatch.
2. The property owner of record is THS CUSTOM HOMES LLC.
3. The location of the project is:
 - a. 116 E. 33rd Street, Garden City Idaho, 83714; Ada County Parcel Number R2734541190. LOT 9 BLK 33 FAIRVIEW ACRES SUB NO 5
 - b. 118 E. 33rd Street, Garden City Idaho, 83714; Ada County Parcel Number R2734541200. LOT 10 BLK 33 FAIRVIEW ACRES SUB NO 5
 - c. E. 33rd Street, Garden City Idaho, 83714; Ada County Parcel Number R2734541210. LOT 11 BLK 33 FAIRVIEW ACRES SUB NO 5.
4. The subject property is 0.56 acres.
5. The application is for a Planned Unit Development.
6. The project is located in the Live-Work-Create and Neighborhood Destination designation(s) of the Comprehensive Plan Future Land Use Map.
7. The project is in the C-2 Zoning District.
8. The project is not located in the floodplain according to the 2003 FIRM.

9. The project is located in the floodplain according to the 2017 FIS.
10. Waivers to Garden City Code, Title 8 regulations include:
 - a. 5' Minimum rear setback line
 - b. Living space to working space ratio no great than 25%
 - c. 10' setback between structures
 - d. 10' minimum perimeter landscaping
 - e. Minimum 10'x20' parking space dimension
 - f. Common open space
 - g. Live space average exceeding 1,000 square feet
 - h. Building height vertical plain recession
11. The following section of the Garden City Development Code apply to this proposal:
 - a. Garden City Code 8-6A Administration
 - b. Garden City Code 8-6B-7: Planned Unit Development
 - c. Garden City Code 8-2C-15 Multi-Family Land Use Provisions
 - d. Garden City Code 8-4A: Design and Development Regulations – General Provisions
 - e. Garden City Code 8-4B: Design and Development Regulations – Design Provisions for Residential Structures
 - f. Garden City Code 8-3C Surel Mitchell Live-Work-Create
 - g. Garden City Code 8-4D: Parking and Off-Street Loading Provisions
 - h. Garden City Code 8-4E: Transportation and Connectivity Provisions
 - i. Garden City Code 8-4G: Sustainable Development Provisions
 - j. Garden City code 8-4H Flood Hazard
 - k. Garden City Code 8-4I: Landscaping and Tree Protection Provisions
 - l. Garden City Code 8-4L: Open Space Provisions
 - m. Garden City Code 4-14: Storm Drainage and Erosion Control
 - n. Garden City Code 8-6A: General Provisions
 - o. Garden City Code Title 6: Public Water and Sewer Systems
12. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2 Required Application Information			
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Provided			
Yes	No	Waivers pursuant to GCC 8-6A	
X			Compliance Statement
X			Preliminary Title Report
X			Neighborhood Map
X			Subdivision Map
X			Master Plan

X			Site Plan
X			Landscape Plan
X			Schematic Drawings
		X	Topographic Survey
		X	Grading Plan
		X	Hydrology Report
		X	Natural Hazard and Resources Analysis
		X	Dedications and Easements
		X	Covenants and Deed Restrictions
	X		Subdivision Name and Reservation
X			Will Serve
		X	Verification that address is an Ada County Approved Address

13. The following noticing was completed in accordance with GCC 8-6A-7:

Noticing Requirement	Required Date	Completion Date
Receipt of application	05/11/2021	05/11/2021
Letter of Acceptance	06/11/2021	05/20/2021
Radius Notice	06/17/2021	05/21/2021
Interested Parties	n/a	n/a
Legal Notice	06/21/2021	05/20/2021
Agency Notice	06/17/2021	05/20/2021
Property Posting Sign	09/03/2021	09/01/2021
Affidavit of Property Posting and Photos	09/06/2021	09/01/2021

14. Agency Comments were received from:
- a. Garden City Engineer, May 28, 2021
 - b. ACHD, June 14, 2021
15. Written Public Comments were received from:
- a. Georgina Baronian; Neutral.
16. On June 16, 2021, a public hearing before the Planning and Zoning Commission was scheduled and moved to the date certain of July 21, 2021.
17. On July 21, 2021, a public hearing before the Planning and Zoning Commission was scheduled and moved to the date certain of August 18, 2021.
18. On August 18, 2021, the Garden City Planning and Zoning Commission recommended Approval of the application subject to the following conditions:
- a. All drafted waivers shall be included in the recommendation except for the waiver regarding the minimum vehicular parking spots;
 - b. A requirement that the full list of waiver requests be submitted prior to the City Council hearing.

19. On June 21, 2021, a pre-application conference before the Design Review Committee.
20. On July 6, 2021, a public hearing before the Design Review Committee was scheduled and continued to the date certain of July 19, 2021.
21. On July 19, 2021, the Garden City Design Committee recommended Approval of the application subject to the following conditions:
 - a. The perimeter landscaping shall increase in width where the common drive is located so as to prevent light pollution from entering the adjacent property.
 - b. Remove a portion of the canal pedestrian pathway so that it does not directly touch the adjacent property's proposed garage.
22. On August 9, 2021, a public hearing before the Garden City Council was scheduled and continued to the date certain of September 13, 2021.
23. On September 13, 2021, a public hearing before the Garden City Council was held:
 - a. Jeff Hatch presented the application;
 - b. Jenah Thornborrow provided a staff report;
 - c. There was no one in attendance in person or online who wished to provide testimony;
 - d. Jeff Hatch provided a rebuttal;
 - e. During discussion council member Jorgensen noted that she has had two recent discussions with constituents indicating how difficult it is to find housing for families and thanked the applicant for the proposal that addresses this need;
 - f. Council Member Jorgensen moved to approve the application with the draft findings of fact, conclusions of law, and conditions of approval as recommended;
 - g. Council Member Page seconded the motion;
 - h. The motion passed on a 3/0 vote.
24. The record contains:
 - a. Application
 - b. Noticing Documents
 - c. Agency Comments
 - d. Public Comments
 - e. Design Review Committee Minutes and Hearing Audio: July 19, 2021
 - f. Design Review Committee Recommendation
 - g. Planning and Zoning Minutes and Hearing Audio: July 21, 2021
 - h. Planning and Zoning Commission Recommendation
 - i. Planning and Zoning Minutes and Hearing Audio: August 18, 2021
 - j. Planning and Zoning Commission Recommendation
 - k. City Council Minutes and Hearing Audio: September 13, 2021

I. City Council Decision

25. In consideration of a Planned Unit Development the planning official or designee has found the application in substantial compliance with the planned unit development and conditional use permit findings:

GCC 8-6B-7: PLANNED UNIT DEVELOPMENT: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
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>Explanation: Approval of this application is conditioned that the development shall be initiated within two years of the date of approval.</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>Explanation: The proposed development and each structure can successfully exist independently of the surrounding area and will not be detrimental to the surrounding neighborhood.</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>Explanation:</p>

			The proposed development has a private drive that is capable of handling anticipated traffic which will provide ingress/egress onto Clay Street. The PUD is not large enough to trigger a traffic impact analysis.
X			<p>Finding: Any proposed commercial development can be justified at the locations proposed.</p> <p>Explanation: The proposed residential units can be justified at the location as the Live- Work-Create zoning overlay has been utilized and the subdivision conforms with the comprehensive plan's designation of Live-Work-Create.</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>Explanation: The requested waivers make a more useful pattern of public space and residential common areas.</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>Explanation: The proposal is compatible with the surrounding uses and the neighborhood vision.</p>
X			<p>Finding: The PUD is in general conformance with the comprehensive plan;</p> <p>Explanation: With the unique design of the dwellings and increase in density, this development may be considered compatible with the existing residential uses in the neighborhood.</p>

X			Finding: The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed;
			Explanation: In Approval: An ability to serve has been submitted with this application.
GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
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;
			Explanation: The application is cohesive with the Comprehensive Plan's designation of Live-Work-Create by increasing the density of the property and providing a non-residential area for each unit that which faces the public street. The development is also compatible with the surrounding uses and is permitted within the C-2 zoning district.
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;
			Explanation: There are public services available that can accommodate the proposed development.
X			Finding: The use will not unreasonably diminish either the health, safety or welfare of the community;
			Explanation: There is no evidence that the development will be detrimental to the public health, safety, or general welfare of the community.

X			<p>Finding: The use is no in conflict with the comprehensive plan or other adopted plans, policies or ordinances of the city.</p> <p>Explanation: The application is cohesive with the Comprehensive Plan's designation of the Neighborhood Destination and Live-Work-Create Designations. And is supports the Comprehensive Plan's Goal 1, Nurture the City; Goal 2, Improve the City Image; Goal 4, Emphasize the "Garden" in Garden City; Goal 7, Connect the City; and Goal 12, Evolve as a Destination.</p> <p>Furthermore, the use has been found to be compliant with the sections of code applicable to the application.</p>
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26. The record was reviewed in its entirety by the Garden City Council to render the decision.

CONCLUSIONS OF LAW

The Garden City Council reviewed the application with regard to Garden City Code, Title 8, and based on the conditions required herein, concludes the application satisfies the required findings under 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 Council hereby APPROVES application PUDFY2021-0001 for a Planned Unit Development and subject to the following conditions:

General Application Specific Requirements:

1. This application is for a 14 unit live-work development. Each unit is to contain both a live and a workspace.
2. **RECOMMENDATION:** As of the date of this writing, the Federal Emergency Management Agency has issued Draft Digital Federal Insurance Rate Maps (DFIRM) which proposes to delineate the subject properties to be within the 100-year Floodplain. The applicant should consider that any new structures must have the top of the lowest floor at or above BFE (as defined by adopted FIRM) pursuant to current Garden City Code. Stricter standards may be required in the future for building permit approval.

3. The development shall be initiated within two (2) years of the date of approval.
4. This approval shall expire within two years of approval, unless otherwise extended as allowed by Garden City Code.
5. The building permits must be in conformance with the approved plans. Staff may approve minor changes to the approvals so if they are compliant with Garden City Code including:
 - a. Substitutions of plant species, if there is no reduction in landscaping and the species are comparable in height and width. Substitutions of trees must be of the same or larger tree classification and be comparable or larger in tree canopy and height.
 - b. Less than 5% of rearrangement of elevations or building façade materials if there is no reduction in building modulation, fenestration, or glazing.
 - c. Less than 5% of rearrangement of site.
6. Approved waivers to Garden City Code, Title 8 regulations include:
 - a. 5' Minimum rear setback line
 - b. Living space to working space ratio no great than 25%
 - c. 10' setback between structures
 - d. 10' minimum perimeter landscaping
 - e. Minimum 10'x20' parking space dimension
 - f. Common open space
 - g. Live space average exceeding 1,000 square feet
 - h. Building height vertical plain recession.
7. Approval of the application does not constitute as the approval for any uses that which are intended to be in the workspaces. Uses shall be required to go through the proper entitlement processes to obtain approval.

Prior to the Issuance of a Building Permit:

1. Building permits shall be applied for and approved by Garden City Development Services Department.
2. The proposed perimeter landscaping along the southern property boundary line has been reviewed and found to be in compliance with Garden City Code 8-41-5. However:
 - a. The perimeter landscaping shall increase in width where the common drive isle is located so as to prevent light pollution from entering the adjacent property.
3. Remove a portion of the canal pedestrian pathway so that it does not directly touch the adjacent property's proposed garage.

4. The property shall be a legal lot of record prior to the issuance of a building permit.
5. The development must obtain Ada County Approved addresses for all new lots.
6. All structures shall adhere to the requirements of GCC 8-4H.
7. Demonstrate compliance with or an exemption from Garden City Code 8-4G.
8. A tree mitigation plan must be submitted and in compliance with GCC 8-4I-7 Tree preservation provisions.
9. All outdoor service and equipment areas shall comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
10. 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.
11. Pressurized irrigation shall be provided in conformance with Garden City Code 8-5A-5H.
12. Contrasting hardscape material shall be installed at the drive aisles to better identify the pedestrian crossings along N. Clay Street.
13. Bicycle parking spaces shall be placed in such a way that when mounting and dismounting the bicycles do not reverse into the sidewalk traffic area along N. Clay Street, nor 33rd Street.
14. Entrances shall be adequately covered, recessed, or treated with a permanent architectural feature in such a way that weather protection is provided.
15. The doorways on buildings abutting or within three feet (3') of the sidewalk should be recessed in order to avoid conflicts with pedestrians.
16. There shall be at least 16 vehicular parking spaces located on-site:
 - a. 14 of the on-site spaces shall be designated specifically for the residents of dwelling units. Each dwelling unit is to have an individual parking space located within the unit's attached garage.
 - b. 2 of the on-site spaces shall be designated specifically for the nonresidential aspect of the live-work unit.
17. Only 1 on-street parallel legal I space in front of the development site shall count towards the nonresidential minimum parking requirements. The remaining 2 shall be required on-site.

18. At least one ADA compliant parking space shall be provided for.
19. At least 4,900 square feet of common open space shall be required on site. All common open space shall be found in conformance with Garden City Code 8-4L-5 Open Space Standards for Multi-family Developments.
20. There is an anticipated reconstruction of Clay Street at this location during Fiscal Year 2023. Coordination with ACHD for design and construction of right-of-way improvements is required.

Prior to Occupancy:

1. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
2. A copy of recorded legally binding documents that state the maintenance and ownership responsibilities for the management of the development, including, but not limited to, structures, parking, common areas, and other development features shall be provided to the City.
3. If this project ever is subdivided or condominiumize, a copy of recorded legally binding documents that state the maintenance and ownership responsibilities for the management of the development, including, but not limited to, structures, parking, common areas, and other development features shall be provided to the City.
4. There will be a minimum of 13 bicycle parking spaces provided.
5. A public works and utility permit shall be submitted for review and approval of the site work that will be required to bring the site into compliance with:
 - a. A detached sidewalk shall be installed in accordance with Garden City 34th Streetscape Policy Resolution NO. 1062-19.
 - b. If the approved streetscape plan is not a viable solution based on other agency comments, a Garden City Code 8-4E-6 and the Garden City Sidewalk Policy compliant sidewalk shall be installed instead.
 - c. Landscaping and street trees shall be installed and inspected for compliance with Garden City Code 8-4I.
6. A legal mechanism shall be produced, to be reviewed administratively, that ensures that each unit will provide both a live and a workspace to be utilized by the same tenant, to indefinitely maintain the code required one to one live/ work ratio.

Site Specific Requirements for the Duration of the Use:

1. All streets and driveways shall adhere to the standards of a clear vision triangle.

2. The structure shall need to be compliant with building code regulations related to both the residential and nonresidential components including but not limited to occupancy design, fire separation, and ADA regulations.
3. The development shall provide parking space(s) compliant with ADA regulations.
4. A minimum of two on-site parking spaces shall not be enclosed in a garage and open to the public during working hours. These spaces shall be marked or otherwise clearly identifiable as commercial spaces.
5. The following amenities shall be provided or replaced with an amenity from the same category of amenity as identified in Garden City Code:
 - a. Quality of Life: Public art visible by the public
 - b. Open Space: Ponds or water features
 - c. Recreational: Walking trails
6. All live spaces must have an associated indoor workspace of at least 250 square feet on the site.
7. The alleyway is not to be used as a development access alley, but rather an access for the utilities above.
8. All workspaces must have an associated live space of at least 220 square feet on site.
9. The live space of any unit shall not exceed 2,135 square feet.
10. All non-residential uses on site must obtain appropriate permits and be compliant with Garden City Code and use standards prior to occupancy.
11. All structures or portions thereof intended for nonresidential use must obtain a new certificate of occupancy, or equivalent, for any change in workspace use, prior to the workspace occupancy of the structure or portion thereof.
12. New uses shall adhere to code regulations, including but not limited to structural, zoning, and parking regulations effective at the time the use formally requested.
13. The workspaces that are open to the public shall be designed to have an obvious entrance and address identification.

General Requirements:

1. The approval is specific to the application provided and reviewed.
2. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained.
3. The applicant shall comply with all requirements of the reviewing entities.

4. 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.
5. 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.
6. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
7. The property owner is responsible for the maintenance of all landscaping and screening devices required.
8. Driveway openings in curbs shall comply with the requirements of the Transportation Authority. The driveway shall be straight or provide a 28-foot inside and 48-foot outside turning radius.
9. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead plant materials shall be replaced.
10. Where landscaping might impact motorist or pedestrian sight distance, shrubs shall be maintained below three feet (3') in height and trees shall be pruned so that the lowest branches will be at least seven feet (7') above the ground level.
11. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
12. Retain and protect existing trees, vegetation, and native soils and integrate these features into the overall landscape plan as required by or exempted from Garden City Code 8-4I and as shown in the approved landscape plans.
13. Required landscape areas shall be at least seventy percent (70%) covered with vegetation at maturity, with mulch used under and around the plants. Use of mulch, organic or rock as the only ground cover in required planting areas is prohibited.
14. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
15. All planting areas that border driveways, parking lots, and other vehicle use areas shall be protected by curbing, wheel stops, or other approved protective devices.
16. Trees shall be planted at least three feet (3') from curbs, sidewalks, driveways and other hard surfaces to buffer from stress caused by vehicle overhang and compacted soils, or planted with sufficient space to provide for the full maturity of the particular tree species.
17. All other plant material, except sod or ground cover, shall be set back a minimum of one foot (1') from any curb edge to protect from vehicle overhang and mechanical damage.
18. The landscape installation shall stabilize all soil and slopes.
19. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
20. System Installation Required: Each and every lot within the subdivision shall have underground pressurized irrigation water. The pressurized irrigation system shall be

constructed and installed at the same time as the domestic water lines but shall not necessarily be in the same trenches.

21. All outdoor living spaces must comply with Garden City Code 8-3C General Provisions- Living Space Requirements.
22. All outdoor service and equipment areas shall comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
23. All stormwater systems must comply with Garden City Code 8-4A-7.
24. 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.
25. 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.
26. Unobstructed easements, including but not limited to, drainage, water, and sewer easements shall be provided as required by the City.
27. 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.
28. 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. Any changes to the plans and specifications upon which this approval is based, other than those required by the conditions noted in this decision, will require submittal of an application for modification and approval of that application prior to commencing any change. Final approval is based on substantial conformance with the plans reviewed and approved.
29. 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.
30. 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.
31. This approval shall expire within two years of approval, unless otherwise extended as allowed by Garden City Code.
32. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
33. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
34. 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.
35. A takings analysis pursuant to Idaho Code may be requested on final decisions.

36. 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.



Mayor, John G. Evans



Date