

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

**THIS IS NOT A PREDETERMINED DECISION. ALL EVIDENCE WILL BE CONSIDERED. A DIFFERENT DECISION MAY RESULT IN AN UPDATE OF THE FINDINGS OF FACT, CONCLUSIONS OF LAW, OR CONDITIONS.**

In the Matter of:	)	SUBFY2021-0001
	)	
	)	
Combined Preliminary/Final Plat Subdivision	)	FINDINGS OF FACT
3945 & 3947 Reed 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 December 16, 2020. The Planning and Zoning Commission reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, the Commission makes the following Findings of Fact, Conclusions of Law and Recommendation:

**FINDINGS OF FACT**

1. The applicant is Richard Wilmont.
2. The property owner of record is Kevin Hawk.
3. The location of the project is 3945 and 3947 Reed St.; Ada County Assessor parcel number(s) R2734560070 & R2734560080.
4. The subject property is 0.31 & 0.32 acres.
5. The application is for a Combined Preliminary/Final Plat Subdivision processed as a Planned Unit Development.
6. Garden City Code, Title 8 requested waivers via the planned unit development application include:
  - a. Interior side setbacks of 0'; and
  - b. More than 4 dwelling units being served through a common drive; and
  - c. A variety of housing types for development over ten dwelling units required to utilize the planned unit development provisions; and
  - d. 10' setback between structures.
7. The project is located in the Mixed-Use Residential designation of the Comprehensive Plan Future Land Use Map.

8. The project is in the R-3 Medium Density Residential Zoning District.
9. The project is located in the 100-year floodplain according to the 2003 FIRM.
10. The project is located in the 100-year floodplain according to the 2017 FIS.
11. The following section of the Garden City Development Code apply to this proposal:
  - a. Garden City Code 8-2B: Base Zoning District Regulations
  - b. Garden City Code 8-4A: Design and Development Regulations – General Provisions
  - c. Garden City Code 8-4B: Design and Development Regulations – Design Provisions for Residential Structures
  - d. Garden City Code 8-4D: Parking and Off-Street Loading Provisions
  - e. Garden City Code 8-4E: Transportation and Connectivity Provisions
  - f. Garden City Code 8-4G: Sustainable Development Provisions
  - g. Garden City Code 8-4H: Flood Hazard
  - h. Garden City Code 8-4G: Sustainable Development Provisions
  - i. Garden City Code 8-4I: Landscaping and Tree Protection Provisions
  - j. Garden City Code 8-4L: Open Space Provisions
  - k. Garden City Code 8-5: Land Division Regulations
  - l. Garden City Code 8-6A: Administration – General Provisions
  - m. Garden City Code 8-6B-7: Planned Unit Development
  - n. Garden City Code 4-14: Storm Drainage and Erosion Control
  - o. Garden City Code Title 6: Public Water and Sewer Systems
1. The applicant provided the following application information:

<b>Materials Provided Per GCC Table 8-6A-2 Required Application Information</b>			
Provided			
Yes	No	Waiver*	
X			Preliminary Title Report
X			Subdivision Map
		X	Hydrology Report
X			Neighborhood Map
X			Site Plan
X			Landscape Plan
X			Schematic Drawings
X			Lighting Plan
X			Topographic Survey
X			Grading Plan
X			Soils Report
		X	Will Serve
X			Engineering Drawings and specifications
		X	Hazard and Resources Analysis
X			Dedications and Easements

X			Covenants and Deed Restrictions
X			Subdivision Name and Reservation
		X	Verification that address is an Ada County Approved Address
			Other submitted materials not required by 8-6A-2: Compliance Statement

\*Items that are waived may be required for reviews later.

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

Noticing Requirement	Required Date	Completion Date
Neighborhood Meeting	10/30/2020	09/09/2020
Application Received	11/10/2020	11/10/2020
Letter of Acceptance	12/10/2020	11/16/2020
Radius Notice	12/01/2020	11/17/2020
Interested Parties	12/09/2020	n/a
Legal Notice	11/27/2020	11/17/2020
Agency Notice	12/01/2020	11/17/2020
Property Posting Sign	12/06/2020	11/24/2020
Affidavit of Property Posting and Photos	12/06/2020	11/24/2020

15. On December 16, 2020, a public hearing before the Planning and Zoning Commission was held:

a. This section will be completed after the hearing.

12. The record contains:

- b. Application
- c. Compliance Statement
- d. Letter of Intent
- e. Civil Plan Sheets 11/06/20:
  - i. Sheet number 1, Cover Sheet, Vicinity Map, Site Map, Sheet Index and Legend
  - ii. Sheet number 2, Notes, Horizontal Control Plan and Details
  - iii. Sheet 3, Demolition Plan and Grading and Drainage Plan
  - iv. Sheet 4, Sewer Line A Plan and Profile
  - v. Sheet 5, Suez Water Plan
- f. Noticing Documents:
  - i. Neighborhood Meeting Verification
  - ii. Letter of Acceptance
  - iii. Radius Notice
  - iv. Legal Notice
  - v. Agency Notice

- vi. Affidavit of Property Posting and Photos
- vii. Agenda
- g. Agency Comments:
  - i. Boise School District
  - ii. Central District Health
  - iii. City Engineer
  - iv. Fairview Acres
  - v. Department of Environmental Quality
- h. Public Comments:
  - i. Barbara Decker
- i. December 7, 2020 Staff Report for Design Review Committee
- j. December 7, 2020 Draft Decision Documents for Design Review Committee
- k. December 16, 2020 Staff Report for Planning and Zoning
- l. December 16, 2020 Draft Decision Document for Planning and Zoning
- m. December 7, 2020 Design Committee Hearing Minutes
- n. December 7, 2020 Design Committee Hearing Audio
- o. December 16, 2020 Planning and Zoning Hearing Minutes
- p. December 16, 2020 Planning and Zoning Hearing Audio
- q. Signed Findings of Fact, Conclusions of Law and Recommendation

13. In consideration of a combined preliminary and final plat subdivision the Planning and Zoning Commission shall make the following findings:

The draft findings are written both in approval and in denial. The Planning and Zoning Commission will select the corresponding findings in their motion for a decision.			
GCC 8-5B-5: SUBDIVISION PROCESS: REQUIRED FINDINGS			
Conclusion			Standard
Compliant	Not Compliant	Not Applicable to this Application	
X			<p><b>Finding:</b> The subdivision is in conformance with the Comprehensive Plan;</p> <p><b>Explanation:</b></p> <p><b>In approval:</b> The application is cohesive with the Comprehensive Plan Mixed Use Residential land use designation.</p> <p><b>In Denial:</b> The application is not cohesive with the Comprehensive Plan of the Mixed Use Residential designation in that the proposal is merely residential and does not incorporate commercial components.</p>

			<p>The subdivision is contrary to the Comprehensive Plan's Goal 5. Focus on the River</p> <p>a.) 5.5 Objective: Create more accessibility to the Boise River and Greenbelt.</p> <p>b.) 5.8 Objective: Plan for the Future of the Greenbelt Pathway and the Boise River.</p> <p>Goal 6. Diversity in Housing</p> <p>a.) 6.3 Objective Maintain a diversity of housing</p> <p>Goal 7. Connect the City</p> <p>7.3 Protect neighborhoods from through traffic</p>
X			<p>Finding: The subdivision is in conformance with all applicable provisions of this title;</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> As conditioned, the application is in conformance with the applicable sections of Garden City Code.</p> <p><b>In Denial:</b> The application is not in conformance with the applicable sections of Garden City Codes, specifically relating to Garden City Code 8-2B Form Standards, Garden City Code 8-4D Parking and Off Street Loading Provisions, and Garden City Code 8-6B-7 Planned Unit Development.</p>
X			<p>Finding: Public services are available or can be made available; and are adequate to accommodate the proposed development;</p> <p><b>Explanation:</b></p> <p>There are public services available that can accommodate the proposed development.</p>
X			<p>Finding: The subdivision is in conformance with scheduled public improvements in accord with the city's capital improvement program;</p> <p><b>Explanation:</b></p> <p>The subdivision does not undermine scheduled public improvements or the</p>

			City's capital improvement program.
X			<p>Finding: There is public financial capability of supporting services for the proposed development</p> <p><b>Explanation:</b>  <b>In Approval:</b> The application has provided an ability to serve letter and ACHD find this application to be within the approved level of service for the roadways.</p> <p><b>In Denial:</b> The application has not provided an ability to serve letter nor has it submitted a waiver for the required submittal document. ACHD has not provided comment on this application.</p>
X			<p>Finding: The development will not be detrimental to the public health, safety or general welfare;</p> <p><b>Explanation:</b>  <b>Explanation:</b>  <b>In Approval:</b> The development will not be detrimental to the public health, safety, or general welfare of the Community by installing pedestrian sidewalks and providing better connectivity on Reed Street.</p> <p><b>In Denial:</b> The application does not meet code standards, nor are appropriate conditions of approval available to mitigate the deficiencies with code compliance.</p>
X			<p>Finding: The development preserves significant natural, scenic or historic resources</p> <p><b>Explanation:</b>  <b>In Approval:</b> The application integrates with the surrounding urban area and proposes to landscape the development site.</p> <p><b>In Denial:</b> The application detracts from the adjacent park, and river system.</p>

14. The record was reviewed by the Planning and Zoning Commission to render the FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION - 6

decision.

## CONCLUSIONS OF LAW

The Planning and Zoning Commission reviewed the application with regard to Garden City Code, Title 8, and based on the conditions required herein, concludes the application satisfies the required findings under GCC 8-5B-5, 8-6B-2, 8-6B-7.

## RECOMMENDATION

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and Recommendation, the Garden City Planning and Zoning Commission hereby recommends **APPROVAL/DENIAL** of SUBFY2021-0001 for a combined Preliminary and Final Plat Subdivision processed as a Planned Unit Development and subject to the following conditions:

### General Application Specific Conditions of Approval:

1. This approval is for a combined preliminary and final plat for a residential subdivision processed as a planned unit development encompassing 16 lots – all 16 lots are to be designated for residential use.
2. This approval allows for 16 units to be served by a common drive.
3. The variety of housing types for planned unit development applications over ten dwelling units shall be met through providing a variety of floor plan layouts.
4. This approval is based on the following plans:
  - a. Landscape Plan Submitted on November 10, 2020
  - b. Architectural Plans (Including tandem parking) submitted on November 10, 2020
  - c. Site Plan Submitted November 10, 2020
  - d. Civil Sub Map submitted on November 10, 2020 and dated November 2, 2020
  - e. Easement Description submitted on November 10, 2020
5. Waivers to Garden City Code, Title 8 regulations include:
  - a. Interior side setbacks of 0'; and
  - b. More than 4 dwelling units being served through a common drive; and
  - c. A variety of housing types for development over ten dwelling units required to utilize the planned unit development provisions; and
  - d. Less than 10' between structures.
  - e. 0.5 guest parking spots for every dwelling unit.
  - f. Tandem garage parking of 10'x40'.

6. The applicant must provide adequate ability to serve documentation prior to signature of the plat or approval of the construction plans.
7. Identification of common open space location, functionality and dimension must be approved by Design Review and in compliance with GCC 8-4L prior to signature of the plat or approval of the construction plans.
8. 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.
9. The application, being in the floodplain, does not require special development considerations that cannot be addressed through the floodplain development permit and construction plan review.

**Prior to City Signature on Plat:**

1. A note must be provided on the final plat documenting:
  - a. The current flood zone in which the property or properties are located;
  - b. FEMA FIRM panel(s), FIRM effective date(s), flood zone(s), base flood elevation(s); and
  - c. Flood zones are subject to change by FEMA and all land within a floodway or floodplain is regulated by this code.
    - i. The boundary line must be drawn on the plat in situations where two (2) or more flood zones intersect over the property or properties being surveyed.
    - ii. The seventy-foot (70') setback line from the ordinary high-water mark shall be depicted on the plat if any section of the plat is within seventy feet (70') of the ordinary high-water mark.
2. All common open spaces shall be located on common lots and noted as unbuildable on the plat.
3. All land within the proposed utility easement shall become a common lot.
4. As stated by the City Engineer, all easements must be noted on the plat or otherwise adopted.
5. A public pedestrian access easement shall be provided to connect Reed Street to the property at the rear of the subdivision.



6. The pedestrian public access easement must be paved and connect to the rear property line to encourage future connectivity with adjacent property.
7. All lot frontage is to be considered adjacent to the common drive except for lots 1 and 16. Lots 1 and 16 frontage is to be considered Reed Street.
8. Provide a note on the final plat to read, "Building setback lines shall be in accordance with current Garden City Code or the following":
  - a. Between structures interior to the subdivision: 3'
  - b. Adjacent side property lines that are not a part of the subdivision (lots 8 and 10 of Fairview Acres No. 7): 5'
  - c. Adjacent rear property line of subdivision (lots 3 and 4 of Fairview Acres No. 3): 15'
  - d. Between townhomes within a building envelope: 0'
  - e. Adjacent to common drive: 12' from travel way

**Prior to approval of construction plans:**

1. A 5' detached sidewalk shall be installed where deficient adjacent to N. Reed Street. The buffer between the sidewalk and the travel lane shall be large enough to accommodate Class II and Class III street trees per ACHD standards. All installed sidewalks must be compliant with GCC 8-4E-6.
2. All pedestrian pathways proposed throughout the development shall be at least 4' in width, and compliant with GCC 8-4E-7 standards.
3. A tree mitigation plan must be submitted and in compliance with GCC 8-4I-7 Tree preservation provisions.
4. All landscaping must be compliant with GCC 8-4I-4 Landscaping Provisions for Specific Uses.
5. Corrected landscaping plans must be submitted and approved by the Design Review Committee to correct for the proposed trees showing their placement to be within the sidewalk.
6. An additional 6 guest parking spaces must be provided for a total of 8 guest parking spots or a waiver to these standards must be approved by City Council. All proposed guest parking spaces must be compliant with dimensions as prescribed in GCC 8-4D-5.

**Prior to approval of building permits for structures:**

1. All proposed tandem parking garages must be 10' x 40', or a waiver to allow 10' X 34' shall be approved by City Council. The parking shall be adequate to fit two vehicles within the enclosed space or a waiver to these standards must be

submitted.

2. Architectural schematics must be submitted and approved by Design Review Committee for lots 1,4,5, and 16.
3. All structures shall adhere to the requirements of GCC 8-4H.
4. All new residential developments over 4 dwelling units are required to submit and build to GCC 8-4G sustainable development provisions. The applicant shall submit a sustainability checklist and any proposed development must be compliant with GCC 8-4G standards.
5. The subdivision must obtain Ada County Approved addresses for all new lots.
6. The Design Review Committee must approve of additional bicycle parking spaces for the entire subdivision.
7. The Design Review Committee must approve of the changes made to address the 2<sup>nd</sup> story balcony and 3<sup>rd</sup> story window privacy concerns.

**General Requirements:**

1. The applicant shall comply with all requirements of the reviewing entities.
2. All improvements and operations shall comply with applicable local, state and federal requirements and procedures whether specifically addressed in the analysis of this application or not. This shall include but not be limited to 8-4A General Provisions of Design and Development Regulations; 8-4I-3 and Landscape maintenance provisions 8-4I-9; and standards for transportation and connectivity provisions identified in 8-4E.
3. The CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho".
4. The approved addresses and a copy of the recorded plat must be provided to the City prior to the City considering the subdivision complete.
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. Required easements must either be on the plat or provided in a recordable document that includes a legal description and illustration.
7. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
8. The property owner is responsible for the maintenance of all landscaping and screening devices required.
9. 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.
10. 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.

11. 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.
12. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
13. 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.
14. 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.
15. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
16. 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.
17. 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.
18. 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.
19. The landscape installation shall stabilize all soil and slopes.
20. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
21. 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.
22. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to final plat signature.
23. The approval is specific to the application provided and reviewed.
24. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained.
25. The property owner is responsible for the maintenance of all landscaping and screening devices required.
26. All outdoor living spaces must comply with Garden City Cod 8-3C General Provisions- Living Space Requirements.
27. All outdoor service and equipment areas shall comply with Garden City Cod 8-4A-5 Outdoor Service and Equipment Areas.
28. All stormwater systems must comply with Garden City Code 8-4A-7.
29. 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.

30. 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.
31. Unobstructed easements, including but not limited to, drainage, water, and sewer easements shall be provided as required by the City.
32. 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.
33. Any changes in the design, construction, operation or use shall be brought to the immediate attention of the Planning Official for determination if the changes are in substantial conformance with the City's action. Any modification to approved plans shall require submittal and approval of these modifications prior to construction and recordation of the final plat. Any changes to the plans and specifications upon which this approval is based, other than those required by the conditions noted in this decision, will require submittal of an application for modification and approval of that application prior to commencing any change. Final approval is based on substantial conformance with the plans reviewed and approved.
34. 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.
35. No subdivision plat required shall be recorded by the Ada County Recorder until such subdivision plat has received final approval by the Council. No public board, agency, Commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by this Title until final plat has received the approval by the Council.
36. 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.
37. In the event that an applicant and/or owner cannot complete the non-life, safety and health improvements, within the time specified in the final subdivision approval or prior to occupancy, the City may require a surety agreement in accordance Garden City Code. Unless financial guarantees of improvement completion has been accomplished, no approval of the final subdivision or recording thereof shall be permitted unless the applicant provides satisfactory proof that all required public improvements and facilities have been fully and satisfactorily constructed and installed.
38. This approval shall expire 365 days from its approval, unless otherwise extended as allowed by Garden City Code .
39. Approval shall become null and void if the applicant fails to record a final subdivision within one (1) year of the approval. If the timetable is not met and the applicant does not receive a time extension, the application will expire and become null and void.

40. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
41. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
42. 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.
43. A takings analysis pursuant to Idaho Code may be requested on final decisions.
44. If any term or provision of this decision, to any extent, is held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

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Chairman, Planning and Zoning Commission

Date

### IN DENIAL

1. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
2. Pursuant to Idaho Code, a request for reconsideration must be submitted within 14 days of the final decision and prior to judicial review. The written request must identify specific deficiencies in the decision for which reconsideration is sought.
3. A takings analysis pursuant to Idaho Code may be requested on final decisions.
4. If any term or provision of this decision, to any extent, is held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

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Chairman, Planning and Zoning Commission

Date