

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.

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| In the Matter of: |) | SUBFY2020-06 |
| |) | |
| |) | |
| Preliminary Plat Subdivision |) | FINDINGS OF FACT |
| 6515 W. State 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 June 17, 2020. The matter was continued to July 15, 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 Robert Taunton representing Glass Creek, LLC.
2. The property owner of record is Glass Creek, LLC.
3. The application is for a Preliminary Plat Subdivision for a residential subdivision comprised of 4 lots – 3 designated for residential use, and 1 common lot.
4. The reserved subdivision name is Glass Island View.
5. The location of the project is Street Address: 6515 W. State Street, Garden City, Idaho.
6. The property is described as a parcel of land being a re-subdivision of a portion of Lot 70, Block 1 of “The Amended Plat of a Portion of Lot 1, and all of Lots 2, 3, 4, 5 and 6, Block 1 of The Plantation No. 2” (Subdivision), located in Government Lot 2 in the Southwest Quarter of Section 30, Township 4 North, Range 2 East, Boise Meridian, Garden City, Ada County, Idaho.
7. The subject property is 1.36 acres of a 18.1 acres parcel.
8. The project is in the R-2 Low Density Residential Zoning District.
9. The project is located in the Residential Low Density designation of the Comprehensive Plan Future Land Use Map.
10. The project is located in the Floodway and AE floodplain according to the 2003 FIRM.

11. The project is partially located in the floodway according to the 2017 FIS.
12. The following section of the Garden City Development Code apply to this proposal:
 - a. Garden City Code 8-1A-4: Applicability, General Regulations
 - b. Garden City Code 8-2B: Base Zoning District Regulations
 - c. Garden City Code 8-3B: Flood Hazard
 - d. Garden City Code 8-4A: General Provisions, Design and Development Regulations
 - e. Garden City Code 8-4D: Parking and Off-Street Loading Provisions, Design and Development Regulations
 - f. Garden City Code 8-4E: Transportation and Connectivity Provisions, Design and Development Regulations
 - g. Garden City Code 8-4I: Landscaping and Tree Protection Provisions, Design and Development Regulations
 - h. Garden City Code 8-4L: Open Space Provisions, Design and Development Regulations
 - i. Garden City Code 8-5A: General Provisions and Standards, Land Division Regulations
 - j. Garden City Code 8-5B-2 Preliminary Subdivision Process, Subdivision Process
 - k. Garden City Code 8-5C-4 Subdivisions Located Within a Floodplain, Special Development Provisions
 - l. Garden City Code 8-6A: General Provisions, Administration
 - m. Garden City Code 8-7A-2 Definition of Terms, Definitions
 - n. Garden City Code 4-14: Storm Water Management and Discharge Control, Public Health and Safety
 - o. Garden City Code 4-15: Erosion and Sediment Control, Public Health and Safety
 - p. Garden City Code Title 6: Water and Sewer
13. The following section of the Garden City Development Code are required to be reviewed per Garden City Code 8-5A-4 General Standards (Land Division Regulation), but are not applicable to this application:
 - a. Garden City Code 8-4B: Design Provisions for Residential Structures, Design and Development Regulations
 - b. Garden City Code 8-4C: Design Provisions for Nonresidential Structures, Design and Development Regulations
 - c. Garden City Code 8-4G: Sustainable Development Provisions, Design and Development Regulations
 - d. Garden City Code 8-6B: Planned Unit Development
14. Required materials per Garden City Code Table 8-6A-2 Required Application Information was provided:

| Preliminary Plat | | | |
|-------------------------|----|----|----------------------|
| Provided | | | |
| Yes | No | NA | |
| X | | | Compliance Statement |
| X | | | Title Report |
| X | | | Neighborhood Map |
| X | | | Subdivision Map |
| X | | | Site Plan |

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| | | Future building architecture is unknown | Schematic Drawings |
| | | No lighting proposed | Lighting Plan |
| X | | | Natural Hazard and Resource Analysis |
| X | | | Will Serve |
| X | | | Subdivision Name Reservation |

14. Additional application materials provided include:
- Appointment of Designated Agent and Special Power of Attorney
 - Planning Submittal
 - Statement of Intent (included with Compliance Statement)
 - Legal Description
 - Warranty Deed
 - Landscape Plan
 - Topographic Survey
 - Engineering Reports (in addition to the Natural Hazard and Resource Analysis)
 - Preliminary Engineering Drawings
 - Neighborhood meeting affidavits
 - Application

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

| Noticing Requirement | Required Date | Completion Date |
|---|---------------------------------|-----------------------|
| Neighborhood Meeting | February 21, 2020- May 20, 2020 | March 12, 2020 |
| Application Received by City | N/A | May 21, 2020 |
| Letter of Acceptance | June 20, 2020 | May 29, 2020 |
| Radius Notice | June 2, 2020 | June 1, 2020 |
| Legal Notice | June 2, 2020 | June 1, 2020 run date |
| Agency Notice | June 2, 2020 | June 1, 2020 |
| Property Posting Sign | June 7, 2020 | June 3, 2020 |
| Affidavit of Property Posting and Photos Received by City | June 10, 2020 | June 4, 2020 |

14. Agency Comments were received by
- Ada County Highway District (public street confirmation)
 - Ada County Highway District (staff report)
 - Boise School District
 - Department of Environmental Quality
 - Flood Control District No. 10
 - Garden City Engineer
 - Idaho Department of Transportation

15. Written testimony was from:
- Ellis
 - Brown
 - Bush
 - Gordon
 - Hauser
 - Heusinkveld

- g. Hutton
 - h. Investors Plantation on the River Subdivision Homeowners Association (IPOR-HOA)
 - i. Lake
 - j. Massman
 - k. Martin
 - l. Rife
 - m. Stenshoel
 - n. Snowden
 - o. Williams
 - p. Wilper
16. On June 17, 2020 the Planning and Zoning Commission:
- a. Discloser of conflict, and *ex parte* discussions
 - i. Chairman disclosed nature of discussions and that he is a member of the executive board for the Plantation Master Association which has interest in the development. The Chairman stated that he has had conversations with about nine or ten of his neighbors who live in the plantation. Discussions included the topics of applicability of the development, bylaws and floodway. In his opinion he does not have real or potential interest in the application. He believes he can be fair and impartial have could fairly hear and consider the application
 - ii. Commissioner Wilde disclosed that he lives in the Plantation Subdivision and participated briefly with homeowners and members of the golf course vis Save the Plantation Golf Course who have interest in thoughtful development of the golf course. Commissioner Wilde believes he can remain impartial.
 - iii. Commissioner Pelton noted no discussions.
 - iv. Commissioner Pounds noted that he indicated that the Commission was going to discuss the application, but nothing more.
 - v. Commissioner Rasmussen noted no discussion.
 - b. The applicant was asked if there was any concern with any of the Commissioners hearing the application.
 - i. JoAnn Butler asked both Chairman Brown and Commissioner Wilde if they could provide a fair and impartial review of the application.
 - ii. Both Commissioner Wilde and Chairman Brown indicated that they feel that they can be fair and impartial.
 - iii. Bob Taunton indicated that he appreciated their disclosures and was comfortable with them considering the application.
 - c. The Public was asked if there was anyone in favor of continuing the hearing
 - i. The following members of the public indicated that they were in favor of continuing the application:
 - 1. Dan Hollar
 - 2. Jake Heusinkveld
 - 3. Valerie Heusinkveld
 - 4. Ron Wilper
 - 5. Philip Gordon

- 6. Barbar and Don Briant
- 7. Karen Hauser
- 8. Peter Snowden
- 9. Tina Ellis
- 10. Jim McEnaney
- 11. George Lake
- 12. Lindsey and Matthew Stenshoel

- d. The applicant was given the opportunity to respond.
 - i. Bob Taunton noted that there were two neighborhood meetings which is more than what is required by code. The applicant has been working aggressively to address issues brought up, and they feel that they are prepared. He noted that he is not in favor of 60-day continuance.
 - ii. JoAnn Butler noted that she appreciated the letters from the community. They have all said that they want to understand detailed engineered studies. Two neighbors have indicated that they intend on hiring independent engineers. Preliminary Plat is the first step, gives a green light to spend a lot of money to generate the studies that they have indicated they want to review. Only after approval of a preliminary plat will those be generated.
- e. The Commission discussed the item.
- f. Debbie Jo Pelton moved to continue to a date certain of July 15, 2020
- g. Commissioner Wilde- seconded.
- h. The motion passed on a 3/1 vote with Commissioner Pounds dissenting.

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

- a. This will be completed after the hearing

18. The record contains:

- a. Application and application materials
- b. Noticing Documents
- c. Agency Comments
- d. Public Testimony
- e. Staff Report
- f. June 17, 2020 Planning and Zoning Commission Hearing
 - i. Minutes
 - ii. Audio
- g. Signed Findings of Fact, Conclusions of Law and Recommendation

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

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| The draft findings are written both in approval and in denial. The Planning and Zoning Commission will select the corresponding conclusions and explanations during their decision. Potential explanations have been provided. | |
| GCC 8-5B-5: SUBDIVISION PROCESS: REQUIRED FINDINGS | |
| Conclusion | |

| Compliant | Not Compliant | Not Applicable to this Application | Standard |
|-----------|---------------|------------------------------------|--|
| X | | X | <p>Finding: The subdivision is in conformance with the Comprehensive Plan;</p> <p>Explanation:</p> <p>In Approval: The application is cohesive with the Comprehensive Plan's designation of Low Density Residential.</p> <p>In Denial: List what actions, if any, the application could have taken to obtain approval.</p> |
| X | | X | <p>Finding: The subdivision is in conformance with all applicable provisions of this title;</p> <p>Explanation:</p> <p>In Approval: As conditioned, the application is in conformance with the applicable sections of Garden City Code.</p> <p>In Denial: List what actions, if any, the application could have taken to obtain approval.</p> |
| X | | X | <p>Finding: Public services are available or can be made available; and are adequate to accommodate the proposed development;</p> <p>Explanation:</p> <p>In Approval: There are public services available that can accommodate the proposed development.</p> <p>In Denial: List what actions, if any, the application could have taken to obtain approval.</p> |
| X | | X | <p>Finding: The subdivision is in conformance with scheduled public improvements in accord with the city's capital improvement program;</p> |

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|---|--|---|--|
| | | | <p>Explanation: In Approval: The subdivision does not undermine scheduled public improvements or the city's capital improvement program.</p> <p>In Denial: List what actions, if any, the application could have taken to obtain approval.</p> |
| X | | X | <p>Finding: There is public financial capability of supporting services for the proposed development</p> <p>Explanation: In Approval: The application has provided an ability to serve letter and ACHD finds this application to be within the approved level of service for the roadways.</p> <p>In Denial: List what actions, if any, the application could have taken to obtain approval.</p> |
| X | | X | <p>Finding: The development will not be detrimental to the public health, safety or general welfare;</p> <p>Explanation: Explanation:</p> <p>In Approval: There are public services available that can accommodate the proposed development.</p> <p>In Denial: List what actions, if any, the application could have taken to obtain approval.</p> |
| X | | X | <p>Finding: The development preserves significant natural, scenic or historic resources</p> <p>Explanation: In Approval: The application integrates with the Boise River and the golf course.</p> <p>In Denial: List what actions, if any, the application could have taken to obtain approval.</p> |

16. The record was reviewed by the Planning and Zoning Commission to render the 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.

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 SUBFY2020-06 for a Preliminary Plat Subdivision and subject to the following conditions:

POTENTIAL CONDITIONS FOR APPROVAL DECISION

1. The driveway and open space areas may be but are not required to be a separate lot. If these areas are contained as part of the buildable lots, the open space and drive area must be held within an easement.

Prior to Signature of Final Plat

1. Identification of ownership and maintenance responsibility of the common lot is required.
2. All easements shall be provided prior to signature of the final plat. The easements include:
 - a. 20' water easement for a proposed 16" water line relocate to connect to the 20' water easement crossing the Boise River
 - b. 20' landscape and open space consisting of 3,841 square feet to the south of the proposed drive
 - c. 20' landscape and open space consisting of 5,845 square feet to the north of the proposed drive
 - d. Perpetual ingress/egress easement on shared drive.
3. The location of the floodplain, floodway, ordinary high-water line, and 70' from the ordinary high-water line shall be noted on the plat.

Prior to Construction of Subdivision Improvements:

1. No development shall occur in the area identified in the floodway as identified in the adopted FIRM maps until after which there is a successful Letter of Map Amendment (LOMA) obtained by FEMA and submitted to the City or any work, including fill or earthwork, in the regulatory floodway that is not removed through a LOMA shall require Garden City floodplain development permit including a no net rise analysis to be reviewed and approved by applicable regulatory agencies such as Garden City, Idaho Department of Water Resources, United States Army Corps of Engineers, and potentially Idaho Department of Lands
2. A subsequent application will be required for staff approval to ensure that the proposed improvements meet code standards and policies for erosion control, storm drainage and discharge, water, sewer, pressurized irrigation, landscaping, hardscaping, floodplain, floodway, riparian areas, wetlands, fire access, and utilities and are in conformance with this approval.
 - a. A complete set of construction plans, including profiles, cross section, specifications and other supporting data for all required public and private streets, utilities, and other facilities shall be prepared by a registered engineer.
 - b. Adequate documentation shall be provided as required by reviewers to ensure compliance.
3. Plans shall depict the location of wetlands if any are identified.

4. Construction plans shall be based on preliminary plans which have been approved with the preliminary subdivision and shall be prepared in conjunction with the final subdivision.
5. All construction plans shall be prepared in accordance with the public agencies' standards or specifications and are subject to approval by the responsible public agency.
6. No construction shall commence until after the approval of the construction plans and final plat, unless otherwise permitted.

Regulations Governing Construction of Buildable Lots within Subdivision

1. No building permits shall be accepted prior to the subdivision being recorded with Ada County Land Records, and Ada County approved addresses being submitted to the City.
2. Lots 1-3 shall be constructed in conformance with standards set forth in Garden City Code 8-2B-3 Form Standards, 8-4A General Design and Development Provisions, 8-4B-3 Residential Design Standards, and 8-4H Flood Hazards as adopted at the time of submittal for a building permit.
3. Each lot shall provide a minimum of 2 parking spaces, at least one of which must be in an enclosed garage. An additional two spaces shall be provided for guest parking within the subdivision. This may be achieved by providing parking on the common lot or by providing additional spaces on the buildable lots. Parking spaces shall meet the requirements of Garden City Code 8-4D-3 at the time of submittal of the building permit.
4. There shall be a total of 5 street trees that are either a class II or III installed per the approved landscape plan. The trees may be installed with the redevelopment of the lot. The westerly street tree, tree 1 moving from west to east, shall be installed prior to the Certificate of Occupancy for Lot 1, trees 2 and 3 shall be installed prior to Certificate of Occupancy for Lot 2, trees 4 and 5 shall be installed prior to Certificate of Occupancy for Lot 3.
5. Any alteration to the Boise River or the floodway will be required to comply with an approved floodplain development permit.

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 as reviewed and approved and recordation of the plat shall be completed prior to final approval of the subdivision.
5. 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.
6. Any future development will be required to meet all applicable code standards in effect at the time of submittal unless specified in this approval.
7. If there is an association formed, the CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho".
8. All utilities on the site, including but not limited to telephone, cable television, and electrical systems shall be underground and in compliance with Garden City Code.
9. Required easements must either be on the plat or provided in a recordable document that includes a legal description and illustration.

10. Water delivery shall be in compliance with Idaho Code and Garden City Code, as approved by the Garden City Engineer.
11. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
12. Monuments shall be set in accordance with section 50-1303, Idaho Code.
13. 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.
14. A perpetual ingress/egress easement for any common driveway shall be filed with the Ada County recorder which shall include a requirement for maintenance of a surface capable of supporting fire vehicles and equipment.
15. No subdivision or part thereof shall be approved if levees, fills, structures or other features within the proposed subdivision will individually or collectively significantly increase flood flows, heights or damages. If only part of a proposed subdivision can be safely developed, the council shall limit development to that part and shall require that development proceed consistent with that determination. Documentation shall be submitted to the city by a registered engineer that there will be no adverse impact off site by the placement of fill, levees, structures or other features within the subdivision.
16. 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.
17. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
18. All streets and driveways shall adhere to the standards of a clear vision triangle at all times as defined by Garden City Code.
19. 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.
 20. 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.
 21. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
 22. 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.
 23. 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.
 24. 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.
 25. The landscape installation shall stabilize all soil and slopes.
 26. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
 27. Pressurized Irrigation shall be provided in compliance Garden City Code and as approved by the Garden City Engineer.
 28. If any property does not have water rights from an existing irrigation district, the applicant shall pay water development fees as determined by the city.
 29. All buildable lots shall be connected to Garden City water and Sewer systems.
 30. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to final plat signature.

31. The person or entity identified as having maintenance responsibility of the common lots is responsible for the maintenance of all landscaping and screening devices required in common areas. 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 in perpetuity to maintain or exceed landscaping requirements required of the subdivision approval.
32. 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.
33. 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.
34. Unobstructed easements, including but not limited to, drainage, water, and sewer easements shall be provided as required by the City. Additional easements including, but not limited to, parking, irrigation accesses may be utilized or required by authorized agents of the city.
35. 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.
36. 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 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 conformance with the plans reviewed and approved.
37. 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.
38. 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.
39. 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.
40. 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 and policies. 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.
41. The Development Services Director may enter into a restricted build agreement on the City's behalf, provided the agreement is in compliance with the approved restricted build agreement policies.

42. 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.
43. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
44. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
45. 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.
46. A takings analysis pursuant to Idaho Code may be requested on final decisions.
47. 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

STANDARD CONDITIONS FOR DENIAL DECISION

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.

Chairman, Planning and Zoning Commission

Date