

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 th Street)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho)	AND DECISION
_____)	

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 application is for the modification of the decision for the following:
 - a. Approval of the Greenbelt wall height to 6 – 8’ depending on site conditions.
 - b. Modification of site specific condition XX to reduce the Greenbelt wall setback to two feet (2’) from the approved 3’.
 - c. Modification of site specific condition XX to allow shrubs along the Greenbelt wall instead of the approved trees within the setback.
5. The original decision was issued by the City Council on May 8, 2017.
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. Property Owner Notices;
 - f. Legal Advertisements in Idaho Statesman for hearings;
 - g. Affidavit of property posting;
 - h. Staff report;
 - i. Planning and Zoning Commission Hearing Sign-Up Sheet.
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. **This will be completed after the hearing.**
- 18. In consideration of a preliminary subdivision or combined preliminary and final subdivision, the Planning and Zoning Commission shall make the following findings:

The findings are drafted both favor of and against approval of the decision. The Commission's decision will be determined at the hearing.			
GCC 8-6B-7 PLANNED UNIT DEVELOPMENT: REQUIRED FINDINGS			
Compliant			
Yes	No	N/A	City Standards and Conclusion
		X	The applicant has demonstrated that the proposed development can be initiated within two (2) years of the date of approval.
			Not applicable due to scope of modification.
		X	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.
			Not applicable due to scope of modification.
		X	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.

			Not applicable due to scope of modification.
		X	Any proposed commercial development can be justified at the locations proposed.
			Not applicable due to scope of modification.
X	X		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.
			IN APPROVAL: The wall height and setback and landscape modifications are in compliance with this finding. The exemptions are warranted by structure design and placement adjacent to the Greenbelt.
			IN DENIAL: The wall height and setback and landscape modifications are not in compliance with this finding. The exemptions are not warranted by structure design and placement adjacent to the Greenbelt. Compliance with the required code standards and the existing conditions of approval is necessary to meet this finding.
		X	The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
			Not applicable due to scope of modification.
X	X		The PUD is in general conformance with the comprehensive plan.
			IN APPROVAL: 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:
			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.
			The proposed modifications enhance focus on the River, protect the Greenbelt, and help to mitigate the Greenbelt from the effects of private development.
			IN DENIAL: The wall height and setback and landscape

			<p>modifications are not in compliance with this finding. The requests are not 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 do not create a focus on the River, do not help to maintain and protect the Greenbelt, and do not help to protect the Greenbelt from the effects of private development.</p>
		X	<p>The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed. Not applicable due to scope of modification.</p>

GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS			
Compliant			City Standards and Conclusion
Yes	No	N/A	
X	X		<p>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>IN APPROVAL: The wall height and setback and landscape modifications are in compliance with this finding. The requests are appropriate the location along the Greenbelt.</p> <p>IN DENIAL: The wall height and setback and landscape modifications are not in compliance with this finding. The requests are not appropriate to the location along the Greenbelt. The requests are not comparable to similar walls and fences along the Greenbelt.</p>
X	X		<p>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>IN APPROVAL: The wall height and setback and landscape modifications are in compliance with this finding. The requests affect the Greenbelt, but conditions can be establish to mitigate adverse impacts.</p>

			<p>IN DENIAL: The wall height and setback and landscape modifications are not in compliance with this finding. The requests directly affect the Greenbelt, a public facility. Conditions cannot be identified to mitigate adverse impacts.</p>
X	X		<p>The use will not unreasonably diminish either the health, safety or welfare of the community.</p> <p>IN APPROVAL: The wall height and setback and landscape modifications are in compliance 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..</p> <p>IN DENIAL: The wall height and setback and landscape modifications are not in compliance with this finding. The requests affect the health, safety or welfare of users of the Greenbelt. Conditions cannot be identified to protect Greenbelt users.</p>
X	X		<p>The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.</p> <p>IN APPROVAL: 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> <p>IN DENIAL: The wall height and setback and landscape modifications are not in compliance with this finding. The requests are not in conformance with the following Goals, Objectives, and Action Steps of the 2006 Comprehensive Plan:</p> <p>Goal 5: Focus on the River</p>

			<p>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 do not create a focus on the River, do not help to maintain and protect the Greenbelt, and do not help to protect the Greenbelt from the effects of private development</p>
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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/DOES NOT SATISFY** 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/DENIAL** of the modification to the approval of SUBFY2017-1/PUD2013-2 and subject to the following conditions:

Conditions for an approval are in GREY.

Conditions for a denial are in RED

IN APPROVAL:

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 retaining wall. No 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

IN DENIAL:

1. 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.
2. Final decisions are subject to judicial review pursuant to The Idaho Administrative Procedures Act, Chapter 65 Title 67 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.

Chairman, Planning and Zoning Commission

Date