

BEFORE THE CITY COUNCIL
GARDEN CITY, ADA COUNTY, IDAHO

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

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

FINDINGS OF FACT

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

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

10. A copy of the application and plans was transmitted to interested and affected public agencies and written comments were received from:
 - a. Republic Services;
 - b. Garden City Public Works Waste Water Division;
 - c. Garden City Public Works Water Division;
 - d. Garden City Public Works Environmental Division;
 - e. Central District Health;
 - f. Department of Environmental Quality;
 - g. Garden City Engineer (The Land Group);
 - h. North Ada County Fire and Rescue;
 - i. Boise School District.

11. The record contains:
 - a. Application Materials;
 - b. Property Owner Notices issued by City;
 - c. Legal Advertisements in Idaho Statesman for hearings;
 - d. Agency Referral Notice;
 - e. Agency Comments;
 - f. Affidavit of property posting;
 - g. Public Comment;
 - h. All preliminary plat record documents;
 - i. Record materials from the City Council February 27, 2017 and March 13, 2017 meeting;
 - j. Record materials from the Planning and Zoning Commission hearing April 19, 2017;

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

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

Environmental Assessment report and made comment.

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

CONCLUSIONS

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

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

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

Site Specific Requirements:

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

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

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

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

General Requirements:

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

12. Prior to signature of the final plat the subdivision shall be in compliance with the application and approval conditions.
13. All demolition must be completed and all improvements as noted as a part of this subdivision application with the exception of the construction of the structures permitted through the building code shall be made or an approved surety for such improvements shall be provided. No uses or structures that have not been noted as part of this application shall be allowed to continue or be constructed.
14. In the event that an applicant and/or owner cannot complete the non-life, safety and health improvements, within the time specified in the final subdivision approval or prior to occupancy, the City may require a surety agreement and a Letter of Credit or cash held in trust in accordance with Garden City Code. Unless financial guarantees of improvement completion has been accomplished, no approval of the final subdivision or recording thereof shall be permitted unless the applicant provides satisfactory proof that all required public improvements and facilities have been fully and satisfactorily constructed and installed.
15. Final subdivision approval shall indicate the acceptance of the infrastructure for all improvements and any required amenities associated with the subdivision. Final approval of the subdivision cannot occur until all infrastructure and amenities have physically been installed.
16. Property maintenance standards shall be maintained as required by Garden City Code.
17. All improvements and operations shall comply with applicable local, state and federal requirements and procedures whether specifically addressed in the analysis of this application or not. This shall include but not be limited to 8-4A General Provisions of Design and Development Regulations; 8-4I-3 and Landscape maintenance provisions 8-4I-9; and standards for transportation and connectivity provisions identified in 8-4E.
18. All utilities on the site, including telephone, cable television, and electrical systems shall be underground and in compliance with Garden City Code 8-4A-8.
19. Driveway openings in curbs shall comply with the requirements of the Transportation Authority.
20. Driveways shall be straight or provide a 28-foot inside and 48-foot outside turning radius.
21. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead plant materials shall be replaced.

22. Where landscaping might impact motorist or pedestrian sight distance, shrubs shall be maintained below three feet (3') in height and trees shall be pruned so that the lowest branches will be at least seven feet (7') above the ground level.
23. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
24. Retain and protect existing trees, vegetation, and native soils and integrate these features into the overall landscape plan.
25. Required landscape areas shall be at least seventy percent (70%) covered with vegetation at maturity, with mulch used under and around the plants. Use of mulch, organic or rock, as the only ground cover in required planting areas is prohibited.
26. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
27. All planting areas that border driveways, parking lots, and other vehicle use areas shall be protected by curbing, wheel stops, or other approved protective devices.
28. Trees shall be planted at least three feet (3') from curbs, sidewalks, driveways and other hard surfaces to buffer from stress caused by vehicle overhang and compacted soils, or planted with sufficient space to provide for the full maturity of the particular tree species.
29. All other plant material, except sod or ground cover, shall be set back a minimum of one foot (1') from any curb edge to protect from vehicle overhang and mechanical damage.
30. The landscape installation shall stabilize all soil and slopes.
31. The property owner is responsible for the maintenance of all landscaping and screening devices required.
32. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with best management practices for automatic irrigation systems.
33. Each lot that contains landscaping within the subdivision shall have underground pressurized irrigation water pursuant to GCC 8-5A-5 H. The pressurized irrigation system shall be constructed and installed at the same time as the domestic water lines, but shall not necessarily be in the same trenches.

34. Cross-Connections: All cross-connections between the domestic water lines and the irrigation water lines shall be in accord with the City's adopted standards, specifications and ordinances.
35. Unobstructed easements, including but not limited to, drainage, water, and sewer easements shall be provided as required by the City. Unless otherwise approved by the City, utility easements that are unobstructed by permanent structures shall be provided along front lot lines, rear lot lines, and side lot lines when deemed necessary by the City Engineer. Total easement width shall not be less than ten feet (10'), with twelve feet (12') recommended, front and rear, with at least twenty feet (20') required for water and sewer easements for main lines.
36. Unobstructed easements, including but not limited to, public access to or for the greenbelt shall be provided as required by the City. The minimum constructed greenbelt width shall be 12' or greater with an easement for 3' of clearance on either side of the pathway.
37. Materials submitted after the decision shall not be considered part of the record for this decision. If additional materials or information is submitted after the decision the application may be remanded to the decision making body during which time the decision shall be stayed provided that there is no immediate threat to life or safety.
38. Any changes in the design, construction, operation or use shall be brought to the immediate attention of the Planning Official for determination if the changes are in substantial conformance with the City's action. Any modification to approved plans shall require submittal and approval of these modifications prior to construction. Final approval is based on conformance with the plans reviewed and approved.
39. Any substantial changes to the design shall be reviewed by the Design Review Committee for compliance with Garden City Code 8-4. Any other changes that are not in substantial conformance with the approval shall be remanded to the decision-making body.
40. No public board, agency, Commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by this Title until final plat has received the required approvals.
41. All previous uses at this location shall are considered abandoned.
42. Occupying the site with any use without Certificate of Occupancy is a criminal offense.

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

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

ATTEST:



Lisa M. Leiby, City Clerk

APPROVED:



John G. Evans, Mayor

