

BEFORE THE CITY COUNCIL  
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:	)	SUBFY2017-4
	)	
Garden Phoenix Subdivision	)	FINDINGS OF FACT
N. Adams St.	)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho	)	AND DECISION
_____	)	

THIS MATTER, came before the Garden City Council for consideration on September 11, 2017. The Council reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, the Council makes the following Findings of Fact, Conclusions of Law and Decision:

**FINDINGS OF FACT**

1. The applicant is Breckon Land Design represented by Ben Semple.
2. The location of the project is N. Adams Street, Garden City, ID 83714. Assigned Ada County Parcel #: R2734500898.
3. The subject property is 0.677 acres.
4. The application is for a Preliminary Plat with a Planned Unit Development subdivision.
5. The project is located in the Mixed Use Commercial designation and Transit Oriented Development Node buffer of the Comprehensive Plan.
6. The project is in the R-3 Medium Density Residential Zoning District.
7. The following section of the Garden City Development Code apply to this proposal:
  - a. Design Review Title 8-Chapter 4, Articles A and B;
  - b. Parking Title 8-Chapter 4, Article D;
  - c. Sidewalks: Title 8-Chapter 4, Article E;
  - d. Sustainable Development Provisions Title 8-Chapter 4, Article G;
  - e. Landscaping: Title 8-Chapter 4, Article I;
  - f. Open Space: Title 8-Chapter 4, Article L;
  - g. Planned Unit Development Title 8-Chapter 6, Article B;
  - h. Storm Drainage and Erosion Control Title 4-Chapter 14;
  - i. Public Water and Sewer Systems Title 6;
  - j. Utilities: Title 8-Chapter 4, Article A.

8. A copy of the application and plans were transmitted to interested and affected public agencies and written comments were received from:
  - a. Garden City Engineer;
  - b. Garden City Waste Water Division;
  - c. Idaho Transportation Department;
  - d. North Ada County Fire and Rescue;
  - e. Central District Health Department;
  - f. Department of Environmental Quality;
  - g. Ada County Highway District.
  
9. 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 reports for Design Review, Planning and Zoning, and City Council meetings;
  - i. Sign Up Sheets for Design Review Committee, Planning and Zoning Commission, and City Council meetings;
  - j. Minutes for Design Review Committee, Planning and Zoning Commission, and City Council meetings;
  - k. Design Review Committee and Planning and Zoning Commission decisions.
  
10. The application was received June 8, 2017.
  
11. The applicant was scheduled for a Commission Public Hearing on August 16<sup>th</sup>, 2017. The Commission Public Hearing was held within sixty (60) days of receipt of the application.
  
12. A public hearing notices for the proposed application were published on July 31, 2017, and on July 3, 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 Section 8-6A-7 of the Garden City Municipal Code. The applicant provided an affidavit that the property was posted on premise in accordance with Garden City Code.
  
13. During the Planning and Zoning Commission Hearing on August 16<sup>th</sup>, 2017. Staff Jenah Thornborrow presented the application. Applicant, Ben Semple represented the application. McKallie Tapp testified noting concerns of privacy. The application, with recommended conditions was approved unanimously.

14. The applicant met with the Design Review Committee on May 22<sup>nd</sup>, 2017, June 5<sup>th</sup>, 2017 and on July 3<sup>rd</sup>, 2017 the Design Review Committee approved the application SUBFY2017-4 subject to the Conditions of Approval.
15. During the City Council Hearing on September 11<sup>th</sup>, 2017. Staff Jenah Thornborrow presented the application. Applicant, Ben Semple represented the application. Lisa Dabel testified in favor. The application, with recommended conditions was approved unanimously.
16. In consideration of a preliminary subdivision or combined preliminary and final subdivision, the City Council shall make the following findings:

<b>GCC 8-5B-5 SUBDIVISION PROCESS: REQUIRED FINDINGS</b>			
Compliant			City Standards and Conclusions
Yes	No	N/A	
X			The subdivision is in conformance with the Comprehensive Plan. Garden Phoenix is in conformance with the Garden City Comprehensive Plan.
X			The subdivision is in conformance with all applicable provisions of the Development Code. Garden Phoenix is in conformance with the requirements of Garden City Code as conditioned herein.
X			Public services are available or can be made available; and are adequate to accommodate the proposed development. Services are available to serve the site and the proposed development.
X			The subdivision is in conformance with scheduled public improvements in accord with the City's capital improvement program. Currently the City does not have a capital improvements program.
X			There is public financial capability of supporting services for the proposed development.
			Existing services are capable of serving the site and the proposed development.
X			The development will not be detrimental the public health, safety, or general welfare.
			The development is planned for residential use similar to the established uses in the surrounding area. It is not anticipated that any uses or activities will be detrimental to the surrounding properties upon completion of the site work.

X			The development preserves significant natural, scenic, or historic features.
			No natural, scenic, or historic features of major importance are known to exist on the site.

<b>GCC 8-6B-7 PLANNED UNIT DEVELOPMENT: REQUIRED FINDINGS</b>			
Compliant			
Yes	No	N/A	City Standards and Conclusion
X			<p>The applicant has demonstrated that the proposed development can be initiated within two (2) years of the date of approval.</p> <p>Approval of this application is conditioned that the development shall be initiated within two years of the date of approval.</p>
X			<p>Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which would not be achieved under standard district regulations.</p> <p>The proposed development and each structure can successfully exist independently of the surrounding area and will not be detrimental to the neighborhood.</p>
X			<p>The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic and increased densities will not generate traffic in such amounts as to overload the street network outside the PUD.</p> <p>With this development, the surrounding streets will be minimally affected. ACHD did not require a traffic study.</p>
X			<p>Any proposed commercial development can be justified at the locations proposed.</p> <p>No commercial development is proposed.</p>
X			<p>Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan, in accordance with the PUD and the adopted policy of the Council.</p> <p>The applicant has requested that more than (4) units be allowed on a common drive. Additionally, the applicant has requested reduced setbacks.</p>

X			The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
			The proposal is compatible with the surrounding uses and vision.
X			The PUD is in general conformance with the comprehensive plan.
			With the unique design of the dwellings and increase in density, this development may be considered very compatible with the existing residential uses surrounding the site. The project is in general conformance with the adopted Garden City Comprehensive Plan.
X			The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed.
			There are adequate services available for the proposed densities.

### CONCLUSIONS OF LAW

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

### DECISION

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and Decision, the Garden City Council hereby does APPROVE of SUBFY2017-4 for a Preliminary Plat processed as a Planned Unit Development for a 9-Lot (8 - buildable, 1 - common) subdivision to be located at North Adams Street, Garden City, ID 83714, Parcel #: R2734500898 and subject to the following conditions:

**Site Specific Requirements:**

1. This approval is for a residential subdivision encompassing 9 lots – 8 designated for residential use and 1 designated for common area.
2. This planned unit development approval allows for more than four (4) units to be on a common drive and a reduction in setbacks.

3. All internal sidewalks, common driveways with curbing, hardscaping, and stormwater facilities shall be constructed in substantial compliance with the approved plans. The approved plans include:
  - a. Landscape Plan submitted May 30<sup>th</sup>, 2017;
  - b. Building Design including Tandem Parking submitted May 30<sup>th</sup>, 2017;
  - c. Garden Phoenix Color Plan submitted June 12<sup>th</sup>, 2017;
  - d. Garden Phoenix Entry Node submitted June 12<sup>th</sup>, 2017.
4. Fence located in front setback adjacent to Adams Street shall not be more than 3'6" and the Design Review Committee encourages that the applicant keep the interior fence less than 4'6".
5. The driveway shall be constructed to act as a plaza. The plaza is considered the open space for the subdivision.
6. Lot 3 shall be a private drive which shall be maintained by the Garden Phoenix Homeowners Association.
7. Provide a note on the final plat to read, "Minimum building setback lines shall be in accordance with the following":
  - a. Lot 1:
    - i. Front Setback: 14'
    - ii. Rear Setback: 10'
    - iii. Interior Side Setback: 0'
    - iv. Side Adjacent to Adams: 20'
  - b. Lot 2:
    - i. Front Setback: 14'
    - ii. Rear Setback: 10'
    - iii. Interior Side Setback: 0' / 12' (from Lot 1)
  - c. Lots 4, 5, 6, 7, 8, 9:
    - i. Front Setback: 5' 7" (from back of sidewalk to garage)
    - ii. Rear Setback: 10'
    - iii. Interior Side Setback: 0' / 5'
8. Easements to be provided include:
  - a. A permanent utility, drainage, and irrigation easement designated as follows, unless otherwise dimensioned: 10' wide centered on all interior lot lines, 10' wide along all exterior lot lines.
  - b. Lot 3 is a shared driveway which shall be granted the Garden Phoenix Homeowners Association.
  - c. 4' permanent slope easement.

9. 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.
10. Approval of a preliminary subdivision and planned unit development shall become null and void if the applicant fails to record a final subdivision within one year of the approval of the preliminary subdivision.

**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. 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.
4. Required easements must either be on the plat or provided in a recordable document that includes a legal description and illustration.
5. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
6. The property owner is responsible for the maintenance of all landscaping and screening devices required.
7. 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.
8. 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.
9. 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.

10. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
11. Retain and protect existing trees, vegetation, and native soils and integrate these features into the overall landscape plan.
12. 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.
13. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
14. 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.
15. 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.
16. 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.
17. The landscape installation shall stabilize all soil and slopes.
18. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
19. 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.
20. Demonstrate compliance with 8-4G-1 prior to signing of the plat.
21. The approval is specific to the application provided and reviewed.
22. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained.
23. The property owner is responsible for the maintenance of all landscaping and screening devices required.

24. Cross-Connections: All cross-connections between the domestic water lines and the irrigation water lines shall be in accord with the City's adopted standards, specifications and ordinances.
25. Utility easements that are unobstructed by permanent structures shall be provided along front lot lines, rear lot lines, and side lot lines when deemed necessary by the City Engineer. Total easement width shall not be less than ten feet (10'), with twelve feet (12') recommended, front and rear, with at least twenty feet (20') required for water and sewer easements for main lines.
26. Unobstructed easements, including but not limited to, drainage, water, and sewer easements shall be provided as required by the City.
27. Materials submitted after the decision shall not be considered part of the record for this decision. If additional materials or information is submitted after the decision the application may be remanded to the decision making body during which time the decision shall be stayed provided that there is no immediate threat to life or safety.
28. Any changes in the design, construction, operation or use shall be brought to the immediate attention of the Planning Official for determination if the changes are in substantial conformance with the City's action. Any modification to approved plans shall require submittal and approval of these modifications prior to construction 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.
29. Any substantial changes to the design shall be reviewed by the Design Review Committee for compliance with Garden City Code 8-4. Any other changes that are not in substantial conformance with the approval shall be remanded to the decision-making body.
30. 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.
31. 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.
32. 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. Approval of a preliminary subdivision shall become null and void if the applicant fails to record a final subdivision within one (1) year of the approval of the preliminary subdivision. 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.

33. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
34. 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 preliminary subdivision or combined preliminary and final subdivision to comply with the current regulations.
35. Final decisions are subject to a 28-day right to judicial review.
36. A takings analysis pursuant to Idaho Code may be requested on final decisions.

  
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Mayor, John G. Evans

9-14-17  
\_\_\_\_\_  
Date