



DEVELOPMENT SERVICES DEPARTMENT

6015 Glenwood Street ■ Garden City, Idaho 83714
Phone 208/472-2921 ■ Fax 208/472-2996 ■
www.gardencityidaho.govoffice

To: City Council
From: Jenah Thornborrow, Development Services Director
Subject: SUBFY2017-4 Garden Phoenix Subdivision Extension Request
Date: For July 26, 2021, City Council Meeting

Request

Extension of subdivision: [SUBFY2017-4 Garden Phoenix Subdivision](#). This is not a public hearing.

Background

The final plat for Garden Phoenix Subdivision, file SUBFY2017-4, located on Adams Street between 43rd and 44th Streets was approved by City Council on September 28, 2020.

Noted Cause for Request

The applicant has noted the following causes for the request:

1. Pending sale of the subdivision project, resulting in change of responsibility for project.
2. Inability to obtain financing.

Staff Analysis

Upon review of the file materials, staff concludes that:

- The application and/or applicable city regulations have not changed; and
- There has been no major change in the plans or policies that would affect the compatibility of the project; and
- The subject property is compliant and has been compliant, or actively pursuing compliance with all city, state and federal codes and laws since the date of application.

Pertinent Code

Below are the current sections of pertinent code.

GCC Title 8, Chapter 5, Article B, Section 6 (“Term of [Subdivision] Permits:

A. Failure To Submit Final Subdivision: Approval of a preliminary subdivision and combined preliminary and final subdivision shall become null and void if a final subdivision has not been signed by the city clerk and engineer within one year of the approval of the preliminary subdivision; or one year of the combined preliminary and final subdivision unless an extension or phasing plan is approved by City Council.

GCC Title 8, Chapter 6, Article A, Section 8 (“Expiration of Approvals:

A. All application approvals shall expire three hundred sixty five (365) days from the date of approval unless:

- 1) the city issues a building permit for the proposed improvement, development, or use prior to the expiration of the three hundred sixty five (365) day period; or
- 2) by condition of approval or development agreement, a time period for completion of the application has been specified; or
- 3) a certificate of compliance has been issued; or
- 4) The final plat of a subdivision approval is recorded with Ada County; or otherwise defined by section [8-5B-6](#) of this title.

B. City Council may allow for an extension of not more than three hundred sixty-five (365) days provided that they find:

1. Good cause for the request; and
2. The application and/or applicable city regulations have not changed; and
3. There has been no major change in the neighborhood, plans, or policies that would affect the compatibility of the project; and
4. The subject property is compliant and has been compliant, or actively pursuing compliance with all city, state and federal codes and laws since the date of application; and
5. It is determined by the City Council that it is in Garden City’s best interest to grant the extension.
6. A request for an extension is no guarantee that the extension will be granted.

Linked Record Documents

- [Extension Request](#)
- [Draft potential City Council Decision](#)
- [Linked record documents](#)

BEFORE THE CITY COUNCIL
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:)	SUBFY2017-04
)	
Extension Request)	FINDINGS OF FACT,
N. Adams Street between 43 rd and 44 th Streets)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho)	AND DECISION
_____)	

THIS MATTER, came before the Garden City Council for consideration on July 26, 2021. The City Council reviewed the request. Based on the evidence presented, pursuant to Garden City Code § 8-6-A. 8 and 8-5B-6 the City Council makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT

1. The requestor is Briant Burke with Garden Phoenix, LLC.
2. The property owner of record is Garden Phoenix LLC.
3. The location of the project is Street Address: 6515 W. State Street, Garden City, Idaho.
4. The application is located at N. Adams St., Garden City, ID 83714. Assigned Ada County Parcel #: R2734500898; Par #08 CTR portion of lots 18-19 block 3 Fairview Acres No 1.
5. The final plat was approved for one year by City Council on September 28, 2020.
6. The City received a one-year extension request in writing on July 15, 2021 noting cause related to:
 - a. Pending sale of the subdivision project and the resulting change of responsibility for the project.
 - b. Inability to obtain financing.
7. The City Council considered request on July 26, 2021.
 - a. This will be completed after the review

- 8. The record contains:
 - a. Applicant request.
 - b. Record documents for SUBFY2017-04

9. The following standards in the Garden City Code apply to this proposal:

Standards	Compliant	Conclusions
GCC 8-5B-6 Term of Subdivision Permit	N/A	Not applicable with an extension approval.
GCC 8-6A-8 Expiration of Approvals	Yes/ No	<p>1. Good Cause exists for the request:</p> <p>In Compliance <u>Explanation:</u> Good cause for the request exists. The applicant was unable to obtain financing and has sold the project. The new owner of the project will be responsible for the completion of the project.</p> <p>Not In Compliance <u>Explanation:</u> Good cause does not exist for the request. There are not extenuating circumstances that have been identified that warrant an extension.</p> <p>2. The application and or applicable city regulations have not changed.</p> <p><u>Explanation:</u> The applicable city regulations have not changed. The application will be required to submit a LOMR rather than a LOMA as anticipated in the preliminary plat.</p> <p>3. There has not been change in the neighborhood, plans or policies that affect the compatibility of the project:</p> <p>In Compliance There has not been change in the neighborhood, plans or policies that affect the compatibility of the project.</p>

		<p>Not In Compliance <u>Explanation:</u> provide explanation as to how the neighborhood has changed.</p> <p>4. The property appears to be compliant with codes and laws: There are no known code enforcement issues at this location.</p> <p>5. It is in the City's best interest to grant the extension:</p> <p>In Compliance It is in the City's best interest to grant the extension.</p> <p>Not In Compliance <u>Explanation:</u> It is not in the City's best interest to grant the extension as: cite reason.</p>
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CONCLUSIONS OF LAW

The City Council reviewed the application with regard to Garden City Code, Title 8, and concludes the application **does/ does not** meet the standards of approval under G.C.C. § 8-6-A.8.

DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Garden City Council does hereby **Approve/ Deny** this request for an extension of the building permit.

1. This approval is for a one-year extension to September 28, 2022.
2. Final decisions may be subject to judicial review pursuant to the Idaho Administrative Procedures Act, Chapter 65 Title 67 Idaho Code.
3. A takings analysis pursuant to Idaho Code may be requested on certain final decisions.

Mayor, John G. Evans

Date

From: [Briant Burke](#)
To: [building](#)
Subject: Re: SUBFY2017-04 Extension Request
Date: Friday, July 16, 2021 12:55:22 PM
Attachments: [image002.png](#)
[image005.png](#)
[image003.png](#)
[image004.png](#)

Briant Burke
Garden Phoenix, LLC
967 East Parkcenter Ste 205
Boise, ID 83706

RE: Application File #SUBFY2017-04 Request for extension to record final plat

To: City of Garden City

Sirs:

This is a request for an extension to record the final plat for Garden Phoenix subdivision SUBFY2017-04, which received final City Council approval on Sept 28, 2020. The entire project, including all land, plans, and approvals has been sold to Kerry Angelos of North Star Homes, who has been building successfully in the valley for 2 decades and, will bring the resources and skill to this project necessary to build it through to completion in a timely manner. Sale of the project is pending. An extension is requested to give North Star time for the requisite planning of the construction phases. The stated intention is to begin land development this current season.

As the owner and design professional of record I hereby give Kerry Angelos and his assigns, associates, and heirs all rights to use the plans en toto as approved by the City of Garden City and as filed.

All outstanding fees for the project will be paid in full at closing. Thank you for your courtesy and patience.

Regards
Briant Burke
Garden Phoenix, LLC

On Fri, Jul 16, 2021 at 9:54 AM building <building@gardencityidaho.org> wrote:

Brian,

I cant get this one open Either.

Elizabeth Parker

Data Management Specialist

Development Services, **City of Garden City**

p: 208-472-2921

f: 208-472-2926



a: [6015 Glenwood Street, Garden City, ID 83714](https://www.gardencityidaho.org)
w: www.gardencityidaho.org e: building@gardencityidaho.org

Window Hours: 9a.m. - 12p.m. and 1p.m. - 3:30p.m.



From: Briant Burke <zymaderm4you@gmail.com>
Sent: Thursday, July 15, 2021 5:10 PM
To: building <building@GARDENCITYIDAHO.ORG>
Subject: Re: SUBFY2017-04 Extension Request

Try this one.

On Thu, Jul 15, 2021 at 3:19 PM building <building@gardencityidaho.org> wrote:

HI Brian,

I was unable to access the attached document in the email, can you please resend the document. I have attached the invoice for the Extension Request.



Elizabeth Parker

Data Management Specialist
Development Services, **City of Garden City**

p: 208-472-2921
f: 208-472-2926
a: [6015 Glenwood Street, Garden City, ID 83714](https://www.gardencityidaho.org)
w: www.gardencityidaho.org e: building@gardencityidaho.org

Window Hours: 9a.m. - 12p.m. and 1p.m. - 3:30p.m.



From: Briant Burke <zymaderm4you@gmail.com>
Sent: Thursday, July 15, 2021 3:31 PM
To: Jenah Thornborrow <jthorn@GARDENCITYIDAHO.ORG>; Lisa <ldinboise@gmail.com>; building <building@GARDENCITYIDAHO.ORG>; jdowniere@gmail.com; kerry@northstaridaho.com
Subject: SUBFY2017-04 Extension Request

Elizabeth,

Please see attached request for extension. I will contact you by phone to make payment by credit card of the extension request fee.

Thank you!

Briant Burke

Garden Phoenix, LLC

Total Control Panel

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To: [Remove](#) this sender from my allow list
building@gardencityidaho.org
From:
zymaderm4you@gmail.com

You received this message because the sender is on your allow list.

From: [Briant Burke](#)
To: [Jenah Thornborrow](#)
Subject: Re: SUBFY2017-04 Extension Request
Date: Tuesday, July 20, 2021 10:16:24 AM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Jenah,

The sale of the project close to the Sept deadline is the primary reason for the extension request. I want any further expense to move the project forward to be the responsibility of the builder. Unfortunately I was unable to obtain financing this past year to start construction, an unexpected and unpleasant turn of affairs for me.

Regards
Briant

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From: Jenah Thornborrow <jthorn@GARDENCITYIDAHO.ORG>
Sent: Tuesday, July 20, 2021 10:08:57 AM
To: Briant Burke <zymaderm4you@gmail.com>
Subject: SUBFY2017-04 Extension Request

Briant,

I wanted to reach out and let you know that the City Council has been asking for a solid reason for just cause related to extension requests. Are there specific reasons that caused a delay thus far that you might be willing to share with the Council to reinforce your request?

Thank you,



Jenah E. Thornborrow

Director
Development Services Department, **City of Garden City**
p: 208-472-2921
a: 6015 Glenwood Street, Garden City, ID 83714
w: <https://gardencityidaho.org/>



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zymaderm4you@gmail.com

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