

BEFORE THE GARDEN CITY COUNCIL
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:)	SUBFY2019-5
)	
Sonrisa Subdivision)	FINDINGS OF FACT
3588 N. Prospect Way)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho)	AND DECISION
_____)	

THIS MATTER came before the Garden City Council for consideration on October 14, 2019. The City Council reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, the City Council makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT

1. The applicant is Pat Tealey with Tealey Land Surveying.
2. The property owner is Gary Asin.
2. The location of the project is 3588 N. Prospect Way, Garden City, ID 83714. Assigned Ada County Parcel #: R9242370040.
3. The subject property is 0.249 acres.
4. The application is for a Preliminary Plat subdivision.
5. The project is located in the Mixed Use Residential and Activity Node – Neighborhood Destination designations of the Comprehensive Plan.
6. The project is in the M Mixed Use zoning district.
7. The following sections 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. Storm Drainage and Erosion Control Title 4-Chapter 14;
 - h. Public Water and Sewer Systems Title 6;
 - i. Utilities: Title 8-Chapter 4, Article A.

- j. Subdivision: Title 8-Chapter 5, Articles A and B
8. A copy of the application and plans were transmitted to interested and affected public agencies and written comments were received from:
 - a. Ada County Highway District
 - b. Idaho Department of Environmental Quality
 - c. Idaho Transportation Department
 - d. Garden City Engineer
 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 report;
 - i. Design Committee Recommendation
 - j. Planning and Zoning Commission Recommendation
 - k. City Council Hearing Sign-Up Sheet
 10. The application was received July 3, 2019.
 11. The application was not complete at the time of submittal. Revised application materials were received on July 15, 2019. The application was determined to be complete on July 15, 2019.
 12. The applicant was scheduled for a City Council Public Hearing on September 9, 2019
 13. The City Council Public Hearing was scheduled within sixty (60) days of receipt of the application.
 14. A public hearing notice for the proposed application was published on July 19, 2019, and on July 18, 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.
 15. On August 21, 2019, the Planning and Zoning Commission continued the application to a date certain of September 18, 2019 in accordance with Garden City Code 8-6A-7 (Public Hearing Process). The applicant did not provide an affidavit that the property was posted on premise in accordance with Garden City Code.
 16. On September 18, 2019 the Planning and Zoning Commission recommended approval of the application.

17. On October 7, 2019 the Design Review Committee recommended approval of the application.
18. The City Council hearing was continued to a date of October 14, 2019 due to the Commission continuance.
19. The applicant provided an affidavit on or before October 4, 2019 that the property was posted in accordance with Garden City Code.
20. During the City Council Hearing on October 14, 2019:
 - a. Pat Tealey represented the application.
 - b. Jenah Thornborrow provided the staff report.
 - c. Tom Baskin testified requesting that draft condition of approval be revised to state “Prior to the final plat signature, confirmation that a three-foot setback *may be* provided...”, as well as noting that Home Owner Association approval should be provided prior to the public hearing process.
 - d. Pat Tealey indicated that rebuttal was unnecessary.
 - e. The public testimony was closed.
 - f. Council President Beaumont moved to approve the application striking the draft site specific condition number 4.
 - g. Council Member Souza provided a second to the motion.
 - h. The motion was approved on a 4/0 vote.
21. In consideration of a preliminary subdivision or combined preliminary and final subdivision, the City Council shall make the following findings:

GCC 8-5B-5 SUBDIVISION PROCESS: REQUIRED FINDINGS			
Compliant			City Standards and Conclusions
Yes	No	N/A	
X			Finding: The subdivision is in conformance with the Comprehensive Plan. Analysis: The subdivision is located in the Activity Node – Neighborhood Destination and Mixed-Use Residential designations of the Comprehensive Plan Land Use Map. The subdivision is in conformance with the designations and the Comprehensive Plan.
X			Finding: The subdivision is in conformance with all applicable provisions of the Development Code. Analysis:

			The subdivision is in conformance with all applicable provisions of this title. Existing development has been reviewed under current standards in previous applications.
X			<p>Finding: Public services are available or can be made available; and are adequate to accommodate the proposed development.</p> <p>Analysis:</p> <p>Public services are available to the site. Adequacy is determined at the time of building permit.</p>
X			<p>Finding: The subdivision is in conformance with scheduled public improvements in accord with the City's capital improvement program.</p> <p>Analysis:</p> <p>The subdivision is in conformance with the city's capital improvement program. The proposed subdivision does not appear to impact the city's capital improvement plan.</p>
X			<p>Finding: There is public financial capability of supporting services for the proposed development.</p> <p>Analysis:</p> <p>The subdivision's scope and scale will not impact the public financial capability to provide services.</p>
X			<p>Finding: The development will not be detrimental the public health, safety, or general welfare.</p> <p>Analysis:</p> <p>No evidence was found on the record demonstrating the subdivision would be detrimental to the public health, safety, or general welfare.</p>
X			<p>Finding: The development preserves significant natural, scenic or historic features</p> <p>Analysis:</p> <p>The subdivision preserves the existing Greenbelt easement and does not proposed to augment the Greenbelt.</p>

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.

DECISION

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and Decision, the Garden City Council approves SUBFY2019-5 for a Preliminary Plat subdivision to be located at 3588 N. Prospect Way, Garden City, ID 83714, assigned Ada County Parcel #: R9242370040. and subject to the following conditions:

Site Specific Requirements:

1. This approval is for a preliminary plat subdivision encompassing 2 lots. This approval does not preclude other uses as allowed by Garden City Code.
2. If the final plat is in substantial compliance with the preliminary plat, an additional final plat hearing is not required.
3. The CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho."

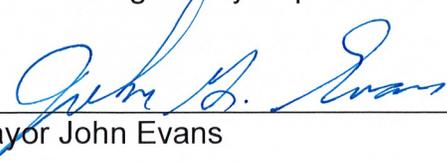
General Requirements:

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



Mayor John Evans

10-17-19

Date