

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

In the Matter of:	)	SUBFY2020-6
	)	
	)	
Final Plat Subdivision	)	FINDINGS OF FACT
6515 W. State St	)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho	)	AND DECISION
_____	)	

THIS MATTER, came before the Garden City Council for consideration on, June 28, 2021. The Garden City Council reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, the Garden City Council makes the following Findings of Fact, Conclusions of Law and Decision:

**FINDINGS OF FACT**

1. The application is for a Final Plat Subdivision.
2. The preliminary plat was approved by City Council on July 27, 2020
3. The location of the project is Street Address: 6515 W. State Street, Garden City, Idaho.
4. The property is described as a parcel of land being a re-subdivision of a portion of Lot 70, Block 1 of "The Amended Plat of a Portion of Lot 1, and all of Lots 2, 3, 4, 5 and 6, Block 1 of The Plantation No. 2" (Subdivision), located in Government Lot 2 in the Southwest Quarter of Section 30, Township 4 North, Range 2 East, Boise Meridian, Garden City, Ada County, Idaho.
5. The subject property is 1.36 acres (of the 18.1-acre parcel as identified through the Ada County Assessor's site parcel R7100480125)
6. The applicant is Robert Taunton representing Glass Creek, LLC.
2. The property owner of record is Glass Creek, LLC.
3. The project is in the R-2 Low Density Residential Zoning District.
4. The project is located in the Residential Low-Density designation of the Comprehensive Plan Future Land Use Map.
5. The project is located in the floodplain according to the 2003 FIRM.

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6. The project is partially located in the floodplain according to the 2017 FIS.
7. The following section of the Garden City Development Code apply to this proposal:
  - a. Garden City Code 8-5B-3: Final Subdivision Process Land Division Regulations
  - b. Garden City Code 8-6A Administration
8. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2 Required Application Information			
Provided			
Yes	No	Waived	
X			Preliminary Title Report
X			Subdivision Map
X			Topographic Survey
X			Grading Plan
X			Soils Report
X			Hydrology Report
X			Engineering Plans and Specifications
X			Dedications and Easements
		X	Covenants and Deeds and Restrictions
		X*	Approved Addresses

\*Items that are waived may be required for reviews later.

9. The following noticing was completed in accordance with GCC 8-6A-7:

Letter of Acceptance	07/02/2021	06/03/2021
Radius Notice	06/13/2021	06/03/2021
Agency Notice	06/13/2021	06/03/2021
Property Posting Sign	06/18/2021	06/18/2021
Affidavit of Property Posting and Photos	06/21/2021	06/18/2021

2. On June 28, 2021, a public hearing before the Garden City Council was held:
  - a. Bob Taunton presented the application.
  - b. Staff, Jenah Thornborrow provided a staff report.
  - c. Ron Bush provided testimony in opposition; his concerns noted:
    - i. Pathway potential;
    - ii. Parking;
    - iii. Drainage;
    - iv. Inadequate affidavit;
    - v. Change to size of subdivision.
  - d. Bob Taunton and JoAnn Butler provided rebuttal.



- e. The public hearing was closed.
- f. The public hearing was reopened, and Ron Bush provided further testimony.
- g. The applicant did not wish to provide a secondary rebuttal.
- h. Council Member Jorgensen moved to approve the application including the draft decision document in the affirmative as drafted.
- i. Council Member Beaumont seconded.
- j. The motion passed on a 4/0 vote.

3. The record contains:

- k. Application
- l. Agency Comments
- m. Public Comments
- n. Noticing Documents
- o. Staff Report
- p. June 28, 2021, City Council Hearing Minutes
- q. June 28, 2021, City Council Hearing Audio
- r. Signed Findings of Fact, Conclusions of Law and Decision

4. In consideration of a final subdivision the planning official or designee has found the final subdivision in substantial compliance with the preliminary subdivision approval:

<b>GCC 8-5B-3: FINAL SUBDIVISION PROCESS</b>			
Conclusion			Standard
Compliant	Not Compliant	Not Applicable to this Application	
X			<p><b>Finding:</b> The number of buildable lots is the same or fewer</p> <p><b>Explanation:</b> The number of buildable lots is the same as the approved preliminary plat.</p>
X			<p><b>Finding:</b> The amount of common open space is increased</p> <p><b>Explanation:</b> There has been no change to the amount of common space.</p>
X			<p><b>Finding:</b> The amount of open space is relocated with no reduction in the total amount</p> <p><b>Explanation:</b> There has been no change to the open space.</p>



X			<b>Finding:</b> The number of open space lots has been increased
			<b>Explanation:</b> The number of lots are consistent.
X			<b>Finding:</b> The transportation authority has required minor changes
			<b>Explanation:</b> The transportation has not required any changes that warrant a re-review of the application.
X			<b>Finding:</b> The general configuration has changed by less than ten percent (10%)
			<b>Explanation:</b> The configuration has not changed.
X			<b>Finding:</b> The planning official or designee has determined there is a substantial difference in the final subdivision than that which was approved as a preliminary subdivision or that the conditions have not been met.
			<b>Explanation:</b> There final subdivision proposal is consistent with the preliminary plat approval, and the applicant has met all conditions of approval/ the preliminary subdivision conditions of approval are still required of the application.

5. The record was reviewed by the City Council to render the decision.

### CONCLUSIONS OF LAW

The Garden 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-3.

### DECISION





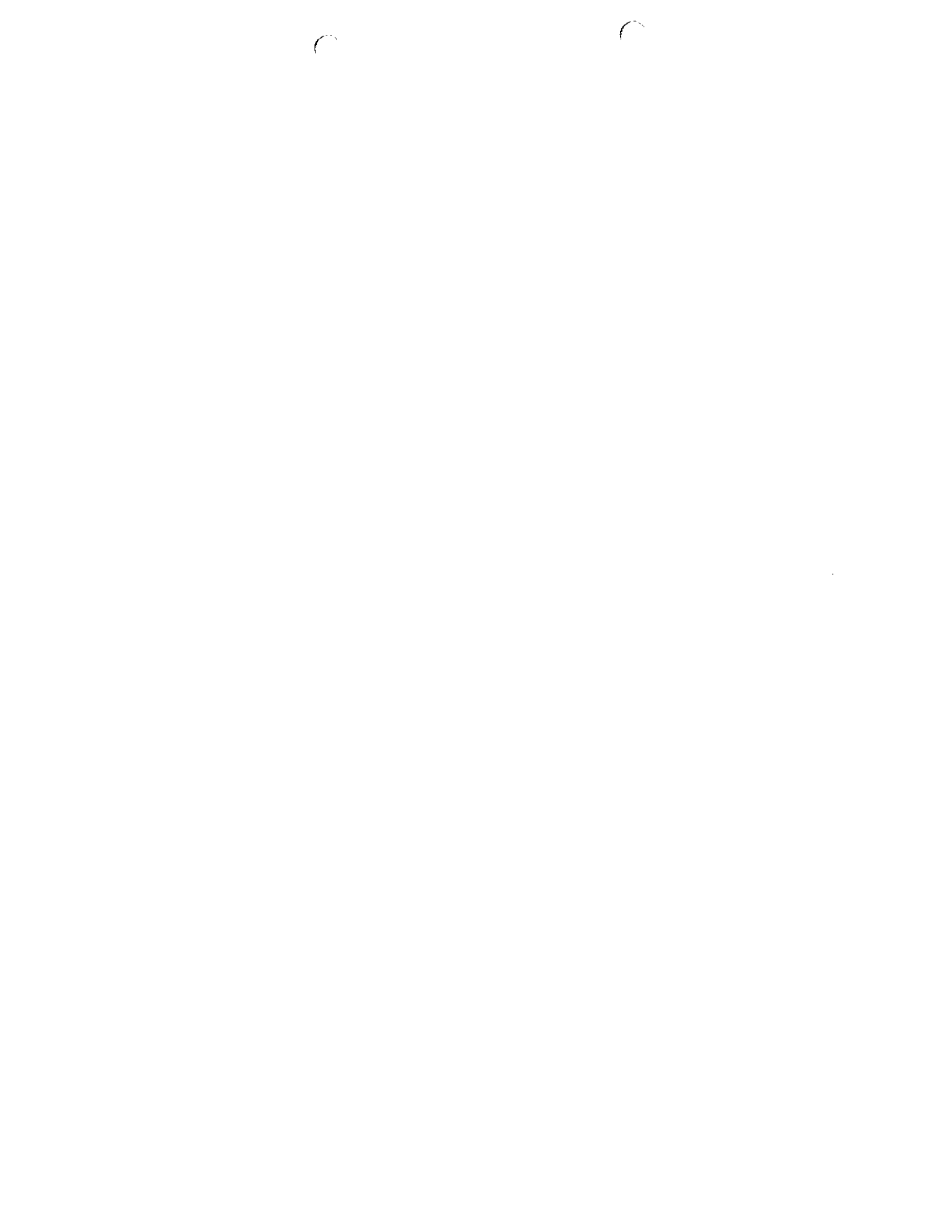
WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and Decision, the Garden City Council hereby **APPROVES** application SUBFY2020-06 for a Final Plat Subdivision subject to the following conditions:

**Prior to Signature of Final Plat**

1. Identification of ownership and maintenance responsibility of the common lot is required.
2. All easements shall be provided prior to signature of the final plat. The easements include:
  - a. 20' water easement for a proposed 16" water line relocate to connect to the 20' water easement crossing the Boise River
  - b. 20' landscape and open space consisting of 3,687 square feet to the south of the proposed drive
  - c. 20' landscape and open space consisting of 5,822 square feet to the north of the proposed drive
  - d. Perpetual ingress/egress easement on shared drive.
3. The location of the floodplain, floodway, ordinary high-water line, and 70' from the ordinary high-water line shall be noted on the plat.
4. Provided that Ada County Highway District is in occurrence, the existing 10' drainage easement along the east boundary of the subdivision may be removed.
5. The use of the restricted build agreement is approved, pending approval of staff including the planning official, and if necessary, the city attorney and, or city engineer to verify that agreement is in compliance with the approved restricted build agreement policies.

**Prior to Construction of Subdivision Improvements:**

1. No development, including fill or earthwork, shall occur in the area identified in the floodway as identified in the adopted FIRM maps, other than the installation of the watermain with an approved permit, until after which there is a successful Letter of Map Revision (LOMR) obtained by FEMA and submitted to the City.
2. A subsequent application will be required for staff approval to ensure that the proposed improvements meet code standards and policies for erosion control, storm drainage and discharge, water, sewer, pressurized irrigation, landscaping, hardscaping, floodplain, floodway, riparian areas, wetlands, fire access, and utilities and are in conformance with this approval.
  - a. A complete set of construction plans, including profiles, cross section, specifications and other supporting data for all required public and private streets, utilities, and other facilities shall be prepared by a registered engineer.
  - b. Adequate documentation shall be provided as required by reviewers to ensure compliance.
3. Plans shall depict the location of wetlands if any are identified.
4. Construction plans shall be based on preliminary plans which have been approved with the preliminary subdivision and shall be prepared in conjunction with the final subdivision.



5. All construction plans shall be prepared in accordance with the public agencies' standards or specifications and are subject to approval by the responsible public agency.
6. No construction shall commence until after the approval of the construction plans and final plat, unless otherwise permitted.

#### **Regulations Governing Construction of Buildable Lots within Subdivision**

1. No building permits shall be accepted prior to the subdivision being recorded with Ada County Land Records, and Ada County approved addresses being submitted to the City.
2. Lots 1-3 shall be constructed in conformance with standards set forth in Garden City Code 8-2B-3 Form Standards, 8-4A General Design and Development Provisions, 8-4B-3 Residential Design Standards, and 8-4H Flood Hazards as adopted at the time of submittal for a building permit.
3. Each lot shall provide a minimum of 2 parking spaces, at least one of which must be in an enclosed garage. An additional two spaces shall be provided for guest parking within the subdivision. This may be achieved by providing parking on the common lot or by providing additional spaces on the buildable lots. Parking spaces shall meet the requirements of Garden City Code 8-4D-3 at the time of submittal of the building permit.
4. There shall be a total of 5 street trees that are either a class II or III installed per the approved landscape plan. The trees may be installed with the redevelopment of the lot. The westerly street tree, tree 1 moving from west to east, shall be installed prior to the Certificate of Occupancy for Lot 1, trees 2 and 3 shall be installed prior to Certificate of Occupancy for Lot 2, trees 4 and 5 shall be installed prior to Certificate of Occupancy for Lot 3.
5. Any alteration to the Boise River or the floodway will be required to comply with an approved floodplain development permit.

#### **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.
3. The applicant shall comply with all requirements of the reviewing entities.
4. All improvements as reviewed and approved, and recordation of the plat shall be completed prior to final approval of the subdivision.
5. 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.
6. Any future development will be required to meet all applicable code standards in effect at the time of submittal unless specified in this approval.
7. If there is an association formed, the CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho".



8. All utilities on the site, including but not limited to telephone, cable television, and electrical systems shall be underground and in compliance with Garden City Code.
9. Required easements must either be on the plat or provided in a recordable document that includes a legal description and illustration.
10. Water delivery shall be in compliance with Idaho Code and Garden City Code, as approved by the Garden City Engineer.
11. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
12. Monuments shall be set in accordance with section 50-1303, Idaho Code.
13. 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.
14. A perpetual ingress/egress easement for any common driveway shall be filed with the Ada County recorder which shall include a requirement for maintenance of a surface capable of supporting fire vehicles and equipment.
15. No subdivision or part thereof shall be approved if levees, fills, structures, or other features within the proposed subdivision will individually or collectively significantly increase flood flows, heights, or damages. If only part of a proposed subdivision can be safely developed, the council shall limit development to that part and shall require that development proceed consistent with that determination. Documentation shall be submitted to the city by a registered engineer that there will be no adverse impact off site by the placement of fill, levees, structures, or other features within the subdivision.
16. 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.
17. A three-foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
18. All streets and driveways shall adhere to the standards of a clear vision triangle at all times as defined by Garden City Code.
19. Retain and protect existing trees, vegetation, and native soils and integrate these features into the overall landscape plan as required by or exempted from Garden City Code 8-4I and as shown in the approved landscape plans.
20. 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.
21. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
22. 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.
23. 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.

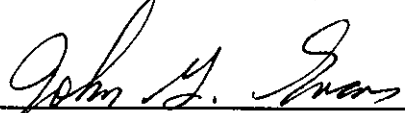


24. All other plant material, except sod or ground cover, shall be set back a minimum of one foot (1') from any curb edge to protect from vehicle overhang and mechanical damage.
25. The landscape installation shall stabilize all soil and slopes.
26. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
27. Pressurized Irrigation shall be provided in compliance Garden City Code and as approved by the Garden City Engineer.
28. If any property does not have water rights from an existing irrigation district, the applicant shall pay water development fees as determined by the city.
29. All buildable lots shall be connected to Garden City water and Sewer systems.
30. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to final plat signature.
31. The person or entity identified as having maintenance responsibility of the common lots is responsible for the maintenance of all landscaping and screening devices required in common areas. 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 in perpetuity to maintain or exceed landscaping requirements required of the subdivision approval.
32. 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.
33. 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.
34. Unobstructed easements, including but not limited to, drainage, water, and sewer easements shall be provided as required by the City. Additional easements including, but not limited to, parking, irrigation accesses may be utilized or required by authorized agents of the city.
35. 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.
36. 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 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 conformance with the plans reviewed and approved.





37. 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.
38. 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.
39. 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.
40. 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 and policies. Unless financial guarantees of improvement completion have 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.
41. Approval shall become null and void if the applicant fails to record a plat with Ada County 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.
42. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
43. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
44. 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.
45. A takings analysis pursuant to Idaho Code may be requested on final decisions.
46. 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.

  
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John G. Evans, Mayor

6-30-21  
\_\_\_\_\_  
Date

