

BEFORE THE PLANNING AND ZONING COMMISSION  
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:	)	SUBFY2020-2
	)	
	)	
Combined Preliminary/Final Plat Subdivision	)	FINDINGS OF FACT
Address	)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho	)	AND RECOMENDATION
_____	)	

THIS MATTER, came before the Planning and Zoning Commission for consideration on February 19, 2020. The Planning and Zoning Commission reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, the Planning and Zoning Commission makes the following Findings of Fact, Conclusions of Law and Recommendation:

**FINDINGS OF FACT**

1. The applicant is Ben Semple with Rodney Evans and Partners.
2. The property owner of record is Dan Russell
3. The location of the project is 204 E. 43<sup>rd</sup> St., Garden City, ID 83714 ; Ada County Parcel # R2734500776.
4. The subject property is 0.69 acres.
5. The application is for a Combined Preliminary/Final Plat Subdivision.
6. The project is located in the Mixed Use Commercial, Activity Node: Neighborhood/Destination, and Activity Node: Transit Oriented Development designations of the Comprehensive Plan Future Land Use Map.
7. The project is in the R-3 Medium Density Residential Zoning District.
8. The project is not located in the floodplain according to the 2003 FIRM.
9. The project is not located in the floodplain according to the 2017 FIS.
10. The following section of the Garden City Development Code apply to this proposal:
  - a. Garden City Code 8-5: Land Division Regulations
  - b. Garden City Code 8-4A: Design and Development Regulations – General Provisions
  - c. Garden City Code 8-4B: Design and Development Regulations – Design Provisions for Residential Structures

- d. Garden City Code 8-4D: Parking and Off-Street Loading Provisions
- e. Garden City Code 8-4E: Transportation and Connectivity Provisions
- f. Garden City Code 8-4G: Sustainable Development Provisions
- g. Garden City Code 8-4I: Landscaping and Tree Protection Provisions
- h. Garden City Code 8-4L: Open Space Provisions
- i. Garden City Code 8-6A: Administration – General Provisions
- j. Garden City Code 4-14: Storm Drainage and Erosion Control
- k. Garden City Code Title 6: Public Water and Sewer Systems

11. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2 Required Application Information		
Provided		
Yes	No	NA
X		
X		
X		
X		
X		
X		
X		
X		
X		
X		
X		

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

Noticing Requirement	Required Date	Completion Date
Neighborhood Meeting	1/21/2020	1/21/2020
Letter of Acceptance	1/24/2020	1/24/2020
Radius Notice	1/19/2020	1/15/2020
Interested Parties	N/A	N/A
Legal Notice	1/19/2020	1/18/2020
Agency Notice	1/19/2020	1/15/2020
Property Posting Sign	1/19/2020	1/19/2020
Affidavit of Property Posting and Photos	1/27/2020	1/22/2020
Agenda Posting	2/1/2020	1/24/2020
Website Posting	2/1/2020	1/24/2020

13. On February 19, 2020, a public hearing before the Planning and Zoning Commission was held:
- a. This section will be completed after the hearing.

14. The record contains:
- a. Application
  - b. Compliance Statement
  - c. Letter of Intent
  - d. Plan Sheets:
    - i. Application
    - ii. Sheet L1.0 Site Plan
    - iii. Sheet L1.2 Landscape Plan
    - iv. Civil Plans
    - v. Sketch Plat
    - vi. Compliance Statement/Statement of Intent
    - vii. Neighborhood Meeting Verification
    - viii. Owners Policy
    - ix. Preliminary Plat
    - x. Final Plat
  - e. Will Serve Letter
  - f. Noticing Documents
  - g. Agency Comments:
    - i. Ada County Highway District
    - ii. North Ada County Fire and Rescue.
    - iii. Garden City Engineer
  - h. 2/3/2020 Design Committee Hearing Minutes
  - i. 2/3/2020 Design Committee Hearing Audio
  - j. Signed Findings of Fact, Conclusions of Law and Recommendation
15. In consideration of a preliminary plat subdivision the Planning and Zoning Commission shall make the following findings:

<b>The draft findings are written both in approval and in denial. The Planning and Zoning Commission will select the corresponding findings in their motion for a decision.</b>			
<b>GCC 8-5B-5: SUBDIVISION PROCESS: REQUIRED FINDINGS</b>			
Conclusion			
Compliant	Not Compliant	Not Applicable to this Application	Standard
X			<p><b>Finding:</b> The subdivision is in conformance with the Comprehensive Plan;</p> <p><b>Explanation:</b></p> <p><b>In approval:</b> The subdivision meets this finding. The subdivision is in conformance with the</p>

			<p>applicable provisions of the Comprehensive Plan.</p> <p><b>In denial:</b>  The subdivision does not meet this finding. The subdivision is not in conformance with the Mixed Use Residential, Activity Node: Neighborhood/Destination, and Activity Node; Transit Oriented Development designations of the Comprehensive Plan.</p>
X			<p>Finding: The subdivision is in conformance with all applicable provisions of this title;</p> <p><b>Explanation:</b></p> <p><b>In approval:</b>  The subdivision meets this finding. The subdivision is in accordance with the following applicable provisions of this title:</p> <ul style="list-style-type: none"> <li>a. Garden City Code 8-5: Land Division Regulations</li> <li>b. Garden City Code 8-4A: Design and Development Regulations – General Provisions</li> <li>c. Garden City Code 8-4B: Design and Development Regulations – Design Provisions for Residential Structures</li> <li>d. Garden City Code 8-4D: Parking and Off-Street Loading Provisions</li> <li>e. Garden City Code 8-4E: Transportation and Connectivity Provisions</li> <li>f. Garden City Code 8-4G: Sustainable Development Provisions</li> <li>g. Garden City Code 8-4I: Landscaping and Tree Protection Provisions</li> <li>h. Garden City Code 8-4L: Open Space Provisions</li> </ul>

			<p><b>i. Garden City Code 8-6A: Administration – General Provisions</b></p> <p><b>In denial:</b>  <b>The subdivision is not in conformance with the applicable provisions of Garden City Code Title 8.</b></p>
X			<p>Finding: Public services are available or can be made available; and are adequate to accommodate the proposed development;</p> <p><b>Explanation:</b></p> <p><b>In approval:</b>  <b>The subdivision meets this finding. Public services are available or can be made available to the site, as demonstrated by the Ability to Serve Letter.</b></p> <p><b>In denial:</b>  <b>The subdivision does not meet this finding. Public services are not available or can not be made available to the site.</b></p>
		X	<p>Finding: The subdivision is in conformance with scheduled public improvements in accord with the city’s capital improvement program;</p> <p><b>Explanation:</b></p> <p><b>Not applicable. The City does not have a capital improvement program.</b></p>
X			<p>Finding: There is public financial capability of supporting services for the proposed development</p> <p><b>Explanation:</b></p> <p><b>In approval:</b>  <b>The subdivision meets this finding. The record does not indicate that the subdivision does not have public</b></p>

			<p><b>financial capability of supporting services.</b></p> <p><b>In denial:</b>  <b>The subdivision does not meet this finding. There is not public financial capability of supporting services for the proposed development.</b></p>
X			<p>Finding: The development will not be detrimental to the public health, safety or general welfare;</p> <p><b>Explanation:</b></p> <p><b>In approval:</b>  <b>The subdivision meets this finding. The subdivision is in accordance with the following applicable provisions of this title:</b></p> <ul style="list-style-type: none"> <li>a. Garden City Code 8-5: Land Division Regulations</li> <li>b. Garden City Code 8-4A: Design and Development Regulations – General Provisions</li> <li>c. Garden City Code 8-4B: Design and Development Regulations – Design Provisions for Residential Structures</li> <li>d. Garden City Code 8-4D: Parking and Off-Street Loading Provisions</li> <li>e. Garden City Code 8-4E: Transportation and Connectivity Provisions</li> <li>f. Garden City Code 8-4G: Sustainable Development Provisions</li> <li>g. Garden City Code 8-4I: Landscaping and Tree Protection Provisions</li> <li>h. Garden City Code 8-4L: Open Space Provisions</li> <li>i. Garden City Code 8-6A: Administration – General Provisions</li> </ul>

			<b>In denial: The subdivision does not meet this finding. The subdivision is not in conformance with the applicable provisions of Garden City Code Title 8.</b>
		X	Finding: The development preserves significant natural, scenic or historic resources <b>Explanation: Not applicable. No significant natural, scenic or historic resources have been identified.</b>

16. The record was reviewed by the Planning and Zoning Commission to render the decision.

### CONCLUSIONS OF LAW

The Planning and Zoning Commission reviewed the application with regard to Garden City Code, Title 8, and based on the conditions required herein, concludes the application **satisfies/does not satisfy** the required findings under GCC 8-5B-5.

### RECOMMENDATION

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and Recommendation, the Garden City Planning and Zoning Commission hereby recommends **approval/denial** of SUBFY2020-2 for a Combined Preliminary/Final Plat Subdivision and subject to the following conditions:

Conditions for approval are in grey

**Conditions for denial are in red**

#### IN APPROVAL

#### Site Specific Requirements:

- This approval is for a preliminary plat for a residential subdivision encompassing 6 lots – 5 designated for residential use, and 1 common lot.

#### General Requirements:

- The applicant shall comply with all requirements of the reviewing entities.
- 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. The CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho".
4. 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.
5. Required easements must either be on the plat or provided in a recordable document that includes a legal description and illustration.
6. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
7. The property owner is responsible for the maintenance of all landscaping and screening devices required.
8. 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.
9. 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.
10. 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.
11. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
12. 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.
13. 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.
14. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
15. 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.
16. 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.
17. 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.
18. The landscape installation shall stabilize all soil and slopes.
19. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
20. 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.

21. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to final plat signature.
22. The approval is specific to the application provided and reviewed.
23. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained.
24. The property owner is responsible for the maintenance of all landscaping and screening devices required.
25. 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.
26. 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.
27. Unobstructed easements, including but not limited to, drainage, water, and sewer easements shall be provided as required by the City.
28. 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.
29. 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.
30. 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.
31. 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.
32. 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.
33. 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.

34. 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.
35. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
36. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
37. 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.
38. A takings analysis pursuant to Idaho Code may be requested on final decisions.
39. 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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Chairman, Planning and Zoning Commission

Date

**IN DENIAL**

1. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
2. 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.
3. A takings analysis pursuant to Idaho Code may be requested on final decisions.
4. 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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Chairman, Planning and Zoning Commission

Date