

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

In the Matter of:)	SUBFY2020-5
)	
)	
Combined Preliminary/Final Plat Subdivision)	FINDINGS OF FACT
404 E. 49 th Street)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho)	AND DECISION
_____)	

THIS MATTER, came before the Garden City Council for consideration on March 2, 2020. 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 Pam Gaines with neUdesign Architecture.
2. The property owner of record is John Hook with Mesa Construction, Inc.
3. The location of the project is 404 E. 49th Street, Garden City, ID 83714; Ada County Parcel Number R7334160441.
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 following designations of the Comprehensive Plan Future Land Use Map:
 - a. Mixed Use Residential
 - b. Activity Node: Neighborhood/Destination
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 located in the floodplain according to the 2017 FIS.
10. The following entitlements are approved for the property:
 - a. Minor Planned Unit Development MPUDFY2019 – 3
 - b. Design Review DSRFY2019 – 17

11. 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

12. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2 Required Application Information			
Provided			
Yes	No	Waiver per GCC 8-6A-4	
X			Compliance Statement
	X		Neighborhood Map
X			Site Plan
X			Landscape Plan
X			Schematic Drawings
X			Lighting Plan
X			Topographic Survey
	X		Grading Plan
	X		Will Serve
X			Verification that address is an Ada County Approved Address

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

Noticing Requirement	Required Date	Completion Date
Neighborhood Meeting	1/13/2020	1/13/2020
Letter of Acceptance	2/3/2020	1/24/2020
Radius Notice	2/3/2020	1/24/2020
Interested Parties	N/A No Interested Parties	

Legal Notice	<ul style="list-style-type: none"> • 2/3/2020 – Original legal notice • 2/18/2020 	<ul style="list-style-type: none"> • Original legal notice completed • 2/14/2020
Agency Notice	2/3/2020	1/24/2020
Property Posting Sign	2/8/2020	2/8/2020
Affidavit of Property Posting and Photos	2/11/2020	2/11/2020
Agenda Posting	<ul style="list-style-type: none"> • 2/14/2020 – Original hearing • 3/1/2020 	<ul style="list-style-type: none"> • Original hearing continued due to legal notice issue • 2/24/2020
Website Posting	<ul style="list-style-type: none"> • 2/14/2020 – Original hearing • 3/1/2020 	<ul style="list-style-type: none"> • Original hearing continued due to legal notice issue • 2/24/2020

14. The applicant met with the Design Review Committee on March 3, 2020:
 - i. Joe Canning presented the application.
 - ii. Staff Chris Samples presented the staff report.
 - iii. Public testimony was heard from:
 1. Frank Page in opposition, noting the following:
 - a. Original approval did not have to have a privacy fence. They are multi-family town houses.
 - b. Pam Gaines a year ago agreed to put a fence up at the site. Wants a privacy fence.
 - iv. Joe Canning provided rebuttal testimony.
 1. Irrigation ditch along south property line, close to the line. Concerned with the impact of a fence on the easement for the irrigation ditch. The ditch pulls across the property line at the end of the southwest property corner, so a fence may be an issue at that location.
 - v. Public testimony was closed.
 - vi. Committee member Labrie moved to recommend approval as submitted.
 - vii. Committee member Gresham seconded.
 - viii. The motion passed unanimously.

15. On March 18, 2020, a public hearing before the Planning and Zoning Commission was held:
 - a. Applicant Joe Canning was present and indicated that he had read the staff report and draft conditions of approval and was in agreement with the conditions as drafted.
 - b. No person was present who wished to testify.
 - c. The staff nor any Planning and Zoning Commission member had no objection to the application being moved to the consent agenda.
 - d. The application was moved to the consent agenda and passed unanimously.

- 16. A Public Hearing was held with City Council on March 23, 2020:
 - a. Applicant Joe Canning represented the request.
 - b. Staff Jenah Thornborrow provided a staff report.
 - c. No one wished to provide public testimony.
 - d. Council **APPROVED** the application unanimously as recommended

- 17. The record contains:
 - e. Application
 - f. Compliance Statement
 - g. Letter of Intent
 - h. Plan Sheets:
 - i. Preliminary Plat
 - ii. Final Plat
 - iii. Site Plan
 - iv. Elevations
 - v. Floor Plans
 - vi. Lighting Plan
 - vii. Ingress/Egress Plan
 - viii. Topographic Survey
 - i. Noticing Documents
 - j. Agency Comments:
 - i. Central District Health Department
 - ii. Acting Garden City Engineer
 - k. MPUDFY2019 – 3 – Decision Document
 - l. DSRFY2019 – 17 – Decision Document
 - m. 3/2/2020 Design Committee Hearing Minutes
 - n. 3/2/2020 Design Committee Hearing Audio
 - o. 3/2/2020 Design Committee Recommendation
 - p. 3/18/2020 Planning and Zoning Commission Hearing Minutes
 - q. 3/18/2020 Planning and Zoning Commission Hearing Audio
 - r. 3/18/2020 Planning and Zoning Commission Recommendation
 - s. 3/23/2020 City Council Hearing Minutes
 - t. 3/23/2020 City Council Hearing Audio
 - u. 3/23/2020 City Council Recommendation
 - v. Signed Findings of Fact, Conclusions of Law and Decision

- 18. In consideration of a combined preliminary/final plat subdivision the Garden City Council shall make the following findings:

The draft findings are written both in approval and in denial. The Garden City Council will select the corresponding findings in their motion for a decision.	
GCC 8-5B-5: SUBDIVISION PROCESS: REQUIRED FINDINGS	
Conclusion	

Compliant	Not Compliant	Not Applicable to this Application	Standard
			<p>Finding: The subdivision is in conformance with the Comprehensive Plan;</p> <p>Explanation:</p> <p>The proposal is within the Mixed Use Residential future land use designation, and meets the intent of this designation.</p>
			<p>Finding: The subdivision is in conformance with all applicable provisions of this title;</p> <p>Explanation:</p> <p>The application is in conformance with the reviewed sections of code noted in this decision.</p>
			<p>Finding: Public services are available or can be made available; and are adequate to accommodate the proposed development;</p> <p>Explanation:</p> <p>This application includes an ability to serve letter.</p>
			<p>Finding: The subdivision is in conformance with scheduled public improvements in accord with the city's capital improvement program;</p> <p>Explanation:</p> <p>The application does not conflict with the capital improvement plan.</p>
			<p>Finding: There is public financial capability of supporting services for the proposed development</p> <p>Explanation:</p> <p>The application has provided an ability to serve letter and ACHD finds this application to be within the approved level of service for the roadways.</p>

			<p>Finding: The development will not be detrimental to the public health, safety or general welfare;</p> <p>Explanation:</p> <p>There is no evidence that this application is detrimental to the public health, safety, or general welfare.</p>
			<p>Finding: The development preserves significant natural, scenic or historic resources</p> <p>Explanation:</p> <p>This application does not affect significant natural, scenic, or historic resources.</p>

19. The record was reviewed by the Garden 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-5.

RECOMMENDATION

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and Decision, the Garden City Council hereby APPROVES of SUBFY2020-5 for a Combined Preliminary/Final Plat Subdivision and subject to the following conditions:

Site Specific Requirements:

1. This approval is for a combined preliminary/final plat for a residential subdivision encompassing 11 lots – 9 designated for residential use, and 2 common lots.
2. The subdivision, site design, landscaping, and elevations shall be in conformance with minor planned unit development MPUDFY2019 – 3 and design review DSRFY2019 – 17.
3. Setbacks shall be in accordance with the entitlements granted in minor planned unit development MPUDFY2019 – 3 and design review DSRFY2019 – 17.
4. Pedestrian connectivity depicted in the application materials connecting the property to the pedestrian pathway on the north property shall be developed. A public access easement shall be provided prior to the final plat signature.

5. A will serve letter and covenants and deed restrictions shall be obtained prior to the final plat signature.

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. 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.



Mayor John G. Evans

3/23/2020

Date