

BEFORE THE CITY COUNCIL
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:)	SUBFY2021-0002
)	
)	
Combined Preliminary and Final Plat)	
Subdivision Processed as a Planned)	
Unit Development)	FINDINGS OF FACT
4539 & 4535 N. Adams St., 314 E. 45 th St.)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho)	AND DECISION
_____)	

THIS MATTER, came before the Garden City Council for consideration on February 22, 2021. 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 David Powell.
2. The property owner of record is 45th & Adams LLC.
3. The subdivision is located at 4535 & 4539 N. Adams St. and 314 E. 45th St.
4. Ada county Assessor parcel number(s):
 - a. R2734500168 described as NW 1/2 OF LOT 17 BLK 1 EXC R/W FAIRVIEW ACRES SUB NO 01 #1110-B.
 - b. R2734500162 described as PAR #0162 OF LOT 16 BLK 1 FAIRVIEW ACRES SUB NO 01 #0159-B.
 - c. R2734500152 described as PAR #0152 OF LOT 16 BLK 01 FAIRVIEW ACRES SUB NO 01 #0150-S.
5. The subject properties are 0.33, 0.46, and 0.23 acres.
6. The application is for a Combined Preliminary and Final Plat Subdivision processed as a planned unit development. It proposes 15 single-family attached dwelling units and 5 common lots.
7. There has been no denial of any application on this property within one year.

8. The project is located in the Main Street Corridor and the Mixed-Use Commercial designations of the Comprehensive Plan Future Land Use Map.
9. The project is in the R-3 medium density residential Zoning District.
10. The project is not located in the floodplain according to the 2003 FIRM.
11. The project is located in the floodplain according to the 2017 FIS.
12. 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 8-2B: Base Zoning District Regulations
 - c. Garden City Code 8-4A: Design and Development Regulations – General Provisions
 - d. Garden City Code 8-4B: Design and Development Regulations – Design Provisions for Residential Structures
 - e. Garden City Code 8-4D: Parking and Off-Street Loading Provisions
 - f. Garden City Code 8-4E: Transportation and Connectivity Provisions
 - g. Garden City Code 8-4H: Flood Hazard
 - h. Garden City Code 8-4G: Sustainable Development Provisions
 - i. Garden City Code 8-4I: Landscaping and Tree Protection Provisions
 - j. Garden City Code 8-4L: Open Space Provisions
 - k. Garden City Code 8-6A: Administration – General Provisions
 - l. Garden City Code 8-6B-7 Planned Unit Development
 - m. Garden City Code 4-14: Storm Drainage and Erosion Control
 - n. Garden City Code Title 6: Public Water and Sewer Systems
 - o. Garden City Code 8-6A-3: General Application Process
13. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2 Required Application Information			
Provided			
Yes	No	Waiver pursuant to 8-6A-4A	
X			Preliminary Title Report
X			Neighborhood Map
X			Subdivision Map
X			Master Plan
X			Site Plan
X			Landscape Plan
X			Schematic Drawings
X			Lighting Plan

X			Topographic Survey
X			Grading Plan
X			Soils Report
X			Hydrology Report
		X	Engineering Drawing and Specifications
X			Natural Hazard and Resources Analysis
			Dedications and Easements
		X	Covenants and Deed Restrictions
		X	Will Serve
			Sub. Name and Reservation
	X		Verification that address is an Ada County Approved Address
			Other: Compliance Statement Statement of Intent Schematic Drawings Perspectives Waiver Request Adams Place Material Board

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

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

Noticing Requirement	Required Date	Completion Date
Receipt of Application	12/15/2020	12/10/2020
Letter of Acceptance	1/15/2021	12/11/2020
Radius Notice	01/05/2021	12/17/2020
Interested Parties	n/a	n/a
Legal Notice	01/01/2021	12/16/2020
Agency Notice	01/05/2021	12/17/2020
Property Posting Sign	01/10/2021	01/10/2021
Affidavit of Property Posting and Photos	01/13/2021	01/11/2021

15. On January 4, 2021, a public hearing before the Design Committee was held:
- a. David Powell and Brian Wenzel presented the application.
 - b. Staff, Hanna Veal, presented the staff report. The following late exhibits were added to the record:
 - i. Sustainability Checklist
 - ii. Adams Place Subdivision name denial email
 - iii. Affidavit 12-23-2020
 - iv. Final Plat Sheets pages 1-3 and dated 12-22-2020
 - v. L1.0 Landscape_Adams Place Subdivision_signed
 - vi. Subdivision name reservation
 - vii. Topographic map dated 12-22-2020

- c. Public Testimony was heard from:
 - i. Jeff Mitchell, neither in support nor in denial of application. Concerns over vehicular speeds along 45th and Adams Street, pedestrian and bicycle safety.
 - d. Brian Wenzel Provided rebuttal testimony.
 - i. Additional conversations with ACHD will need to address traffic safety concerns.
 - ii. 4' wide pedestrian pathways throughout the site.
 - iii. 5' wide sidewalk along 45th Street.
 - iv. HVAC systems are planned to be out of floodplain and screened.
 - v. Condensing units will be on the roofs.
 - vi. Meters are at an unknown location at this point.
 - vii. Changing the site plans to address the variety of housing types required by the PUD does not decrease landscaping.
 - viii. Correct landscaping data is reflected in the submitted landscaping plan at 10,380sqft.
 - ix. Arborist meeting is scheduled to provide a certified arborist letter for proper tree mitigation.
 - e. Public Testimony was closed.
 - f. Discussion included:
 - i. Contrasting hardscaping to better identify the pedestrian crossing along the common drive isle is needed.
 - ii. Collaboration with ACHD will help address vehicular travel speeds.
 - g. Committee Member Labrie moved to recommend approval as drafted in the decision documents with the additional conditions of:
 - i. Meters shall be identified on site plans and screened or match the architectural design of the residential structures.
 - ii. All HVAC systems shall be identified on site plans and screened to be in compliance with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
 - iii. Contrasting hardscape material shall be installed to better identify the pedestrian crossing along the common drive.
 - h. Committee Member Gresham seconded the motion.
 - i. The motion passed unanimously.
16. On January 20, 2021, a public hearing before the Planning and Zoning Commission was held:
- a. At the beginning of the meeting the Chairman asked if the applicant was in attendance and if they agreed with the draft findings of fact conclusion of law and recommended decision in the affirmative, if there was any member of the public who wished to testify in opposition to the application, or if the staff or any member of the Commission have any reason that the application should be heard.
 - b. Representing the applicant, Brian Wenzel noted that he was in attendance and that he agreed with the decision and conditions as drafted in the affirmative.

- c. There was no one from the public who wished to testify.
- d. The staff nor any member of the Commission noted a reason why this item needed to be heard.
- e. The application was moved to the consent agenda, and approved.

17. The record contains:

- a. Land Division Application
- b. Planned Unit Development Application
- c. Application Waiver Letter
- d. Compliance Statement
- e. Letter of Intent
- f. Master Plan
- g. Site Photos
- h. Warranty Deeds
- i. Neighborhood Map
- j. Topographic Survey Sheets 1-3 dated 11-10-2020
- k. Adams Place Subdivision Preliminary Plat Composite Plan Sheet 2/3 Dated December 2020
- l. Adams Place Subdivision Preliminary Plat – Grading Plan sheet 3/3 dated December 2020
- m. Adams Place Subdivision Preliminary Plat – Lot Layout Plan Sheet 1/3 dated December 2020
- n. Landscaping Plan Sheet L1.0
- o. Site Plan Sheets:
 - i. Sheet Number 02 date 12/10/2020
 - ii. Sheet number 03 dated 12/10/2020
- p. Adams Place Material Board
- q. Elevation Sheets 08-09 dated 12/10/2020
- r. Floor Plan sheet 05 dated 12/10/2020
- s. Perspectives Sheet numbers 10-13 dated 12/10/2020
- t. Site context sheets 1-4 dated 12/10/2020
- u. Site Lighting Plan
- v. Site Section Sheets 06-07 dated 12/10/2020
- w. Late submittals for Design Review 12/30/2020
- x. Design Review Hearing Exhibits
- y. Updated Site Plans and Schematics 01/13/2021
- z. Noticing Documents:
 - i. Neighborhood Meeting Verification
 - ii. Letter of Acceptance
 - iii. Radius Notice
 - iv. Legal Notice
 - v. Agency Notice
 - vi. Affidavit of Property Posting and Photos
 - vii. Agenda Posting
- aa. Agency Comments:
 - i. City Engineer

- ii. North Ada County Fire
 - iii. Boise School District
 - iv. Central District Health
 - v. Department of Environmental Quality
 - vi. Fairview Acres
 - vii. Ada County Development Services
- bb. Public Testimony:
- i. Jeff Mitchell
- cc. January 4, 2021 Design Committee Hearing Minutes
- dd. January 4, 2021 Design Committee Hearing Audio
- ee. Design Review Committee Decision
- ff. January 20, 2021 Planning and Zoning Hearing Minutes
- gg. January 20, 2021 Planning and Zoning Hearing Audio
- hh. Planning and Zoning Commission Recommendation
- ii. February 22, 2021 City Council Hearing Minutes
- jj. February 22, 2021 City Council Hearing Audio
- kk. February 22, 2021 City Council Decision

18. In consideration of a preliminary plat subdivision the City Council shall make the following findings:

Potential conclusions have been drafted based on the recommendations. The Council may agree with the drafted conclusion and explanation or may find a different conclusion and or explanation. These conclusions of law are not predetermined.			
GCC 8-5B-5: SUBDIVISION PROCESS: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X			<p>Finding: The subdivision is in conformance with the Comprehensive Plan;</p> <p>Explanation: The application is cohesive with the Comprehensive Plan Mixed Use Commercial land use designation</p>
X			<p>Finding: The subdivision is in conformance with all applicable provisions of this title;</p> <p>Explanation: As conditioned, the application is in conformance with the applicable sections of Garden City Code.</p>

X			Finding: Public services are available or can be made available; and are adequate to accommodate the proposed development;
			Explanation: There are public services available that can accommodate the proposed development.
X			Finding: The subdivision is in conformance with scheduled public improvements in accord with the city's capital improvement program;
			Explanation: The subdivision does not undermine scheduled public improvements or the City's capital improvement program.
X			Finding: There is public financial capability of supporting services for the proposed development
			Explanation: The application has provided a waiver for the ability to serve letter and a condition of approval for the submittal of this letter has been made.
X			Finding: The development will not be detrimental to the public health, safety or general welfare;
			Explanation: The development will not be detrimental to the public health, safety, or general welfare of the Community by installing pedestrian sidewalks and providing better connectivity on N. Adams St. or 45 th St.
X			Finding: The development preserves significant natural, scenic or historic resources
			Explanation: The application integrates with the surrounding urban area and proposes to landscape the development site.

19. In consideration of a planned unit development, the City Council shall make the following findings:

Potential conclusions have been drafted based on the recommendations. The Council may agree with the drafted conclusion and explanation or may find a different conclusion and or explanation. These conclusions of law are not predetermined.

GCC 8-6B-7: PLANNED UNIT DEVELOPMENT: REQUIRED FINDINGS

Conclusion			Standard
Compliant	Not Applicable to this Application	Not Compliant	
X			<p>Finding: The applicant has demonstrated that the proposed development can be initiated within two (2) years of the date of approval;</p> <p>Explanation: Approval of this application is conditioned that the development shall be initiated within two years of the date of approval.</p>
X			<p>Finding: Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which would not be achieved under standard district regulations;</p> <p>Explanation: The proposed development and each structure can successfully exist independently of the surrounding area and will not be detrimental to the neighborhood.</p>
X			<p>Finding: The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic and increased densities will not generate traffic in such amounts as to overload the street network outside the PUD;</p> <p>Explanation:</p>

			The proposed development has a common drive that is capable of handling anticipated traffic which will provide only one ingress/egress onto 45th Street. The PUD is not large enough to trigger a traffic impact analysis.
X			<p>Finding: Any proposed commercial development can be justified at the locations proposed.</p> <p>Explanation: Not Applicable: No proposed commercial development.</p>
X			<p>Finding: Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan, in accordance with the PUD and the adopted policy of the council</p> <p>Explanation: The applicant has requested that more than (4) units be allowed on a common drive. Additionally, the applicant has requested reduced setbacks of 0' rear and interior side setbacks.</p>
X			<p>Finding: The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development;</p> <p>Explanation: The proposal is compatible with the surrounding uses and vision.</p>
X			<p>Finding: The PUD is in general conformance with the comprehensive plan;</p> <p>Explanation: With the unique design of the dwellings and increase in density, this development may be considered compatible with the existing residential uses in the neighborhood.</p>

X			<p>Finding: The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed;</p> <p>Explanation: Approval of this application is conditioned in that the ability to serve shall be provided prior to signature of the plat or approval of construction plans.</p>
GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X			<p>Finding: The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district;</p> <p>Explanation: The application is cohesive with the Comprehensive Plan's designation of Mixed Use Commercial. The development is also compatible with the surrounding uses and is permitted within the R-3 zoning district.</p>
X			<p>Finding: The use will be supported by adequate public facilities or services to the surrounding area, or conditions can be established to mitigate adverse impacts;</p> <p>Explanation: Approval of this application is conditioned in that the ability to serve shall be provided prior to signature of the plat or approval of construction plans.</p>
X			<p>Finding: The use will not unreasonably diminish either the health, safety or welfare of the community;</p>

			<p>Explanation: The development will not be detrimental to the public health, safety, or general welfare of the Community by installing pedestrian sidewalks and providing better connectivity on 45th Street and maintaining existing sidewalks along N. Adams Street.</p>
X			<p>Finding: The use is no in conflict with the comprehensive plan or other adopted plans, policies or ordinances of the city.</p> <p>Explanation: The reviewed sections are in conformance with this finding. The comprehensive plan objectives reviewed, and land use designation support this application.</p>

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

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, 8-6B-2 and 8-6B-7.

DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions, the Garden City Council hereby does **APPROVE/ DENY** of SUBFY2021-0002 for a Combined Preliminary and Final Plat Subdivision and subject to the following conditions:

General Application Specific Conditions of Approval:

1. This approval is for a combined preliminary and final plat for a residential subdivision processed as a planned unit development encompassing 20 lots – 15 lots are to be designated for residential use and 5 lots are to be designated as common lots.
2. This approval is based on the following plans:
 - a. Landscape Plan Submitted on January 13, 2021 dated 01/11/2021
 - b. Architectural Plans (including tandem parking) submitted January 13, 2021 dated 01/12/2021
 - c. Site Plan submitted on January 13, 2021 dated 01/12/2021
 - d. Civil Sub Map submitted on November 10, 2020 and dated November 2, 2020

- e. Easement Description submitted on November 10, 2020;
 - f. Preliminary Plat Composite Plan submitted January 13, 2021 dated December, 2020.
3. Waivers to Garden City Code, Title 8 regulations include:
- a. Interior side setbacks of 0'; and
 - b. Rear side yard setbacks of 0'; and
 - c. More than 4 dwelling units being served through a common drive;
4. RECOMMENDATION: As of the date of this writing, the Federal Emergency Management Agency has issued Draft Digital Federal Insurance Rate Maps (DFIRM) which proposes to delineate the subject properties to be within the 100-year Floodplain. The applicant should consider that any new structures must have the top of the lowest floor at or above BFE (as defined by adopted FIRM) pursuant to current Garden City Code. Stricter standards may be required in the future for building permit approval.
5. The application, being in the floodplain, does not require special development considerations that cannot be addressed through the floodplain development permit and construction plan review.
6. The applicant must provide adequate ability to serve documentation prior to signature of the plat or approval of the construction plans.

Prior to City Signature on Plat:

1. A note must be provided on the final plat documenting:
- a. The current flood zone in which the property or properties are located;
 - b. FEMA FIRM panel(s), FIRM effective date(s), flood zone(s), base flood elevation(s); and
 - c. Flood zones are subject to change by FEMA and all land within a floodway or floodplain is regulated by this code.
 - i. The boundary line must be drawn on the plat in situations where two (2) or more flood zones intersect over the property or properties being surveyed.
 - ii. The seventy-foot (70') setback line from the ordinary high-water mark shall be depicted on the plat if any section of the plat is within seventy feet (70') of the ordinary high-water mark.
2. As stated by the City Engineer, all easements must be noted on the plat or otherwise adopted.
3. Provide a note on the final plat to read, "Building setback lines shall be in accordance with current Garden City Code or the following":
- a. Lots 1,2,3, 5, 6, 7, and 15 -19
 - i. Front Setback: 5/20'

- ii. Rear Setback: 0'
 - iii. Interior Side Setbacks between townhomes within a building envelope: 0'
 - iv. Side Yard Setbacks: 5'
 - b. Lots 10, 11,12, and 13
 - i. Front Setback: 5'/20'
 - ii. Rear Setback: 0'
 - iii. Interior Side Setbacks between single family dwelling units: 3'
 - iv. Side Yard Setbacks: 5'
- 4. All common open spaces shall be located on common lots and noted as unbuildable on the plat.

Prior to approval of construction plans:

- 1. A 5' detached sidewalk shall be installed where deficient adjacent to 45th Street. The buffer between the sidewalk and the travel lane shall be large enough to accommodate Class II and Class III street trees per ACHD standards. All installed sidewalks must be compliant with GCC 8-4E-6.
- 2. All pedestrian pathways proposed throughout the development shall be at least 4' in width, and compliant with GCC 8-4E-7 standards.
- 3. A tree mitigation plan must be submitted and in compliance with GCC 8-4I-7 Tree preservation provisions.
- 4. All submitted construction plans must be corrected to state, "Forty Fifth Place Subdivision" instead of "Adams Place Subdivision".
- 5. All landscaping information must match that of the submitted landscaping plans and be compliant with Garden City Code 8-4I-3 General Landscaping Standards and Irrigation Provisions.

Prior to approval of building permits for structures:

- 1. All structures shall adhere to the requirements of GCC 8-4H Flood Hazard.
- 2. The subdivision must obtain Ada County Approved addresses for all new lots.

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. The approved addresses and a copy of the recorded plat must be provided to the City prior to the City considering the subdivision complete.
5. 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.
6. Required easements must either be on the plat or provided in a recordable document that includes a legal description and illustration.
7. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
8. The property owner is responsible for the maintenance of all landscaping and screening devices required.
9. 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.
10. 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.
11. 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.
12. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
13. 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.
14. 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.
15. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
16. 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.
17. 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.
18. 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.
19. The landscape installation shall stabilize all soil and slopes.
20. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.

21. 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.
22. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to final plat signature.
23. The approval is specific to the application provided and reviewed.
24. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained.
25. The property owner is responsible for the maintenance of all landscaping and screening devices required.
26. All outdoor living spaces must comply with Garden City Code 8-3C General Provisions- Living Space Requirements.
27. All outdoor service and equipment areas shall comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
28. All stormwater systems must comply with Garden City Code 8-4A-7.
29. 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.
30. 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.
31. Unobstructed easements, including but not limited to, drainage, water, sewer, and connections to public right-of-way or pathways shall be provided as required by the City.
32. 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.
33. 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.
34. Any changes to the design of this project shall be reviewed by the Design Review Committee for compliance with Garden City Code 8-4. Other changes that are not in conformance with the approval shall be remanded to the decision-making body.
35. 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.
36. 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.
 37. 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.
 38. The Development Services Director may enter into a restricted build agreement on the City's behalf, provided the agreement is in compliance with the approved restricted build agreement policies.
 39. This approval shall expire 365 days from its approval, unless otherwise extended as allowed by Garden City Code .
 40. 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.
 41. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
 42. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
 43. 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.
 44. A takings analysis pursuant to Idaho Code may be requested on final decisions.
 45. 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.

John G. Evans, Mayor

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.

Mayor, John G. Evans

Date