

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

THIS IS NOT A PREDETERMINED DECISION. ALL EVIDENCE WILL BE CONSIDERED. A DIFFERENT DECISION MAY RESULT IN AN UPDATE OF THE FINDINGS OF FACT, CONCLUSIONS OF LAW, OR CONDITIONS.

| | | |
|--------------------------------|---|---------------------|
| In the Matter of: |) | SUBFY2021-0004 |
| |) | |
| |) | |
| Condominium Subdivision |) | FINDINGS OF FACT |
| 9557 W. State Street |) | CONCLUSIONS OF LAW, |
| Garden City, Ada County, Idaho |) | AND DECISION |
| _____ |) | |

THIS MATTER, came before the Garden City Council for consideration on February 8, 2021. The Garden City Council reviewed the application and materials submitted. 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 applicant is Kyle Prewett.
2. The property owner of record is Residences at Sleepy Hollow LLC.
3. The location of the project is 9557 W. State Street; S0514438580; Property is described as PAR #8580 @ S SIDE SW4SE4 SEC 14 4N 1E PARCEL A R/S 10007
4. The subject property is 3.03 acres.
5. The application is for a combined Preliminary and Final Condominium Plat Condominium Subdivision.
6. The project is located in the Green Boulevard Corridor designations of the Comprehensive Plan Future Land Use Map.
7. The project is in the C-2 Zoning District.
8. The project is not located in the floodplain according to the 2003 FIRM.
9. The project is in the floodplain according to the 2017 FIS.
10. There has been no denial of any application in the same form for the same use on this property within one year.

11. The following section of the Garden City Development Code apply to this proposal:
 - a. Garden City Code 4-14: Storm Drainage and Erosion Control
 - b. Garden City Code Title 6: Public Water and Sewer Systems
 - c. 8-1A-4 Applicability
 - d. 8-1B-1 Non-conforming Properties
 - e. 8-2B Base Zoning District Regulations
 - f. 8-2C-15 Dwelling Unit, Multifamily
 - g. Garden City Code 8-4A: Design and Development Regulations – General Provisions
 - h. Garden City Code 8-4B: Design and Development Regulations – Design Provisions for Residential Structures
 - i. Garden City Code 8-4D: Parking and Off-Street Loading Provisions
 - j. Garden City Code 8-4E: Transportation and Connectivity Provisions
 - k. Garden City Code 8-4G: Sustainable Development Provisions
 - l. Garden City Code 8-4H: Flood Hazard
 - m. Garden City Code 8-4I: Landscaping and Tree Protection Provisions
 - n. Garden City Code 8-4L: Open Space Provisions
 - o. Garden City Code 8-5: Land Division Regulations
 - p. Garden City Code 8-5A General Provisions and Standards Land Division Regulations
 - q. Garden City Code 8-5B Subdivision Process
 - r. Garden City Code 8-5C-2: Condominium Subdivisions
 - s. Garden City Code 8-6A: Administration - General Provisions

12. The applicant provided the following application information:

| Materials Provided Per GCC Table 8-6A-2 Required Application Information | | | |
|--|----|--------|----------------------------------|
| Provided | | | |
| Yes | No | Waived | |
| X | | | Compliance Statement |
| X | | | Covenants Deeds and Restrictions |
| X | | | Site Plan |

13. Additional Application Materials Submitted:
 - a. DSRFY2019-10 Approved Plans for all structures;
 - b. DSRFY2019-10 Approved Site Plans;
 - c. Affidavit of Legal Interest;
 - d. Signed Condominium Plat Application.

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

| Noticing Requirement | Required Date | Completion Date |
|----------------------|---------------|-----------------|
| Letter of Acceptance | 02/21/2021 | 01/25/2021 |
| Agenda Posting | 02/06/2021 | 02/05/2021 |

- 14. The record contains:
 - a. Application
 - b. Staff Report for
 - c. Decision Document

- 15. Garden City Code does not have specific findings for a condominium subdivision. In consideration of a Combined preliminary/ Final plat subdivision the Decision maker shall make the following findings:

| | | | |
|---|------------------------------------|---------------|---|
| Potential conclusions have been drafted based on the Planning Official's recommendation. 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>The subdivision is in conformance with the Comprehensive Plan;</p> <p><u>Explanation:</u> The application is cohesive with the Comprehensive Plan's Goal 6 of providing a diversity of housing.</p> |
| X | | | <p>The subdivision is in conformance with all applicable provisions of this title;</p> <p><u>Explanation:</u> As conditioned, the application is in conformance with the applicable sections of Garden City Code.</p> |
| X | | | <p>Public services are available or can be made available; and are adequate to accommodate the proposed development;</p> <p><u>Explanation:</u> Public services are or will be available in conjunction with the construction of the approved application DSRFY2019-10 and associated building permits.</p> |
| X | | | <p>The subdivision is in conformance with scheduled public improvements in accord with the city's capital improvement program;</p> |

| | | | |
|--|---|--|--|
| | | | <u>Explanation:</u> The subdivision does not undermine scheduled public improvements or the City's capital improvements program. |
| | X | | There is public financial capability of supporting services for the proposed development <u>Explanation:</u> The ownership of a dwelling units versus the rental of dwelling units has no bearing on the public financial capability of supporting services to that development. |
| | X | | The development will not be detrimental to the public health, safety or general welfare; <u>Explanation:</u> The ownership of a dwelling units versus the rent of dwelling units has no bearing on the public health, safety, or general welfare. |
| | X | | The development preserves significant natural, scenic or historic resources <u>Explanation:</u> There are no physical improvements proposed with this application. |

16. 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/DOES NOT SATISFY** 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 hereby **SUSTAIN/MODIFY/REJECT** the Planning Official's recommendation and therefor does **APPROVE/DENY** application SUBFY2021-0004 for a Preliminary Plat Subdivision processed as a Planned Unit Development and subject to the following conditions:

Application Specific Requirements:

1. This approval is for a combined preliminary and final condominium residential subdivision encompassing 44 units.

2. The property must be demonstrated that it is a or otherwise become legal lot prior to the final approval of the condominium.
3. Prior to final approval, the site must be in compliance with conditions of approval from preceding entitlements including application DSRFY2019 and associated building permits.
4. The applicant shall record the declaration, subdivision, deeds, bylaws, and or articles of incorporation as provided by Idaho Code section 55-1506.
5. A declaration and bylaws shall be consistent with the provisions contained in Idaho Code section 55-1505.
6. The CC&Rs must state that the garages shall be utilized only for residential purposes by the residents of Sleepy Hollow and that this condition cannot be revoked or amended without approval by the City of Garden City.

General Requirements:

1. Diagrammatic floor plans of the building or buildings built or to be built shall be in sufficient detail to identify each unit, its relative location and approximate dimensions, showing elevations where multilevel or multi-story structures are diagrammed.
2. The applicant shall comply with all requirements of the reviewing entities.
3. 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.
4. The CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho".
5. The approved addresses and a copy of the recorded plat must be provided to the City prior to the City considering the subdivision complete.
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. 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. All outdoor service and equipment areas shall comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
13. The approval is specific to the application provided and reviewed.

14. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained.
15. The property owner is responsible for the maintenance of all landscaping and screening devices required.
16. Unobstructed easements, including but not limited to, drainage, water, and sewer easements shall be provided as required by the City.
17. 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.
18. 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.
19. 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.
20. 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.
21. 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.
22. This approval shall expire 365 days from its approval, unless otherwise extended as allowed by Garden City Code.
23. Approval shall become null and void if the applicant fails to record the 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.
24. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
25. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.

26. 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.
27. A takings analysis pursuant to Idaho Code may be requested on final decisions.
28. 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

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