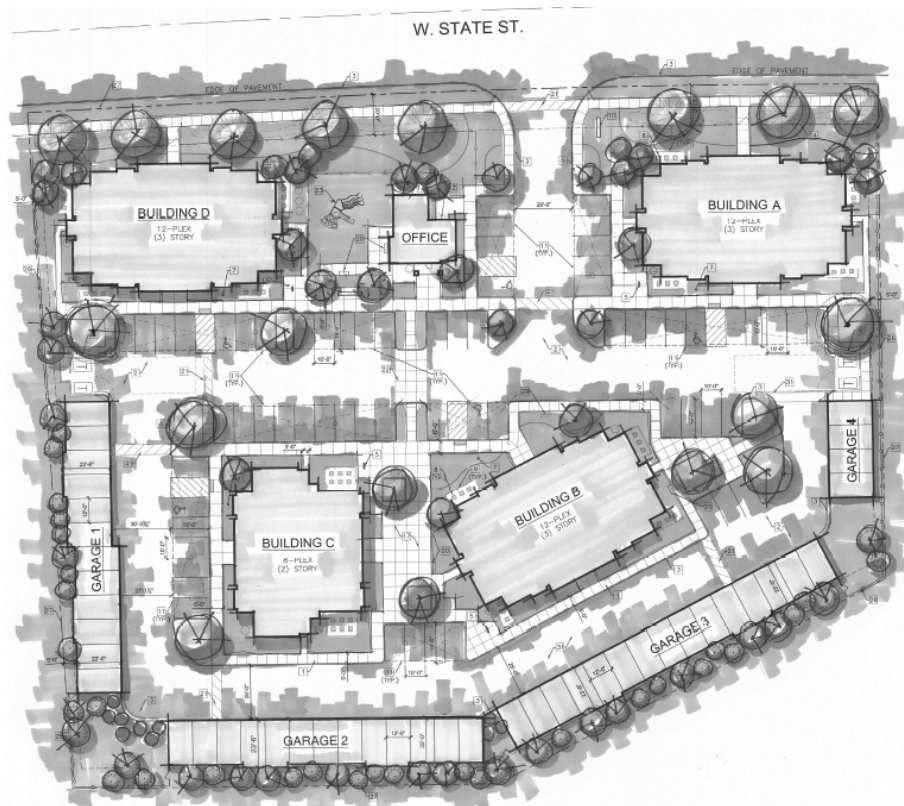




CITY OF GARDEN CITY

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File Number: SUBFY2021-0004
For: Condominium Subdivision
For 44 Residential Units
Location: 9557 W. State Street
Applicant: Kyle Prewett
Report Date: February 8, 2021



Staff Report
Report prepared by Hanna Veal and Jenah Thornborrow

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A. Recommendation:

The staff has not identified any concerns with the approval of this application, and as such, the Planning Official recommends that the City Council grant and approve the application with conditions as drafted.

The conditions of approval have been drafted to:

1. Ensure that the documentation provided meets code requirements.
2. That the approval of this application is tied to the previously approved Sleepy Hollow; and
3. That the garages are utilized only for residential purposes by the residents of Sleepy Hollow.

B. Record Documents ([link to all file documents](#))

Individual links:

1. [Application Materials](#)
2. Approved Documents
 - a) [Approved A](#)
 - b) [Approved B](#)
 - c) [Approved C](#)
 - d) [Approved D](#)
 - e) [Approved Garage 2](#)
 - f) [Approved Garage 1](#)
 - g) [Approved Garage 3](#)
 - h) [Approved Garage 4](#)
 - i) [Approved Leasing](#)
 - j) [Approved Site Plan](#)
3. [Acceptance Letter](#)
4. [Draft Potential Decision Document](#)

C. Project Information

Proposed Scope of Work:

This application is for a condominium subdivision/plat per Garden City Code 8-7A-2 Definition of Terms:

Condominium:

An estate consisting of an undivided interest in common in real property, in an interest or interests in real property, or in any combination thereof; together with a separate interest in real property, in an interest or interests in real property or in any combination thereof, as defined under Idaho Code sections [55-101B](#) and [55-1503](#).

Subdivision:

The result of an act of dividing an original lot, tract or parcel of land into two (2) or more parts for the purpose of transfer of ownership or development, which may also include easements and the dedication of a public street or designation of private lanes or rights-of-way, and the addition to, or creation of, a cemetery. However, this definition shall not apply to any of the following:

- A. An adjustment of lot lines as shown on a recorded plat which does not reduce the area, frontage, width, depth or building setback lines of each building site below the minimum zoning requirements, and does not increase the original number of building sites in any block of the recorded plat;
- B. An allocation of land in the settlement of an estate of a decedent or a court decree for the distribution of property;
- C. The unwilling sale of land as a result of legal condemnation as defined and allowed in the Idaho Code;
- D. Widening of existing streets to conform to the comprehensive plan, or as required by ACHD;
- E. The acquisition of street rights-of-way by a public agency; and
- F. The exchange of land for the purpose of straightening property boundaries which does not result in the change of the present land usage.

Plat:

The drawing, mapping, or planning of a subdivision, cemetery, town site or other tract of land or a replatting of such, including certifications, descriptions, and approvals.

- A. Combined Preliminary and Final Plat: A process that involves concurrent review and decision on a preliminary and final plat.
- B. Final Plat: The final and formal presentation by drawings of an approved subdivision development, the original and one (1) copy of which are filed with the county clerk and recorder.
- C. Preliminary Plat: The first formal presentation by drawings of a proposed subdivision.
Sketch Plat: A sketch preparatory to a preliminary plat that indicates all roads, parks, rights-of-way and public sites.

Review Process	Notes
<p><u>8-5C-2</u> Condominium Process</p>	<p>The provisions of 8-5C-2 apply to app property to be subdivided with condominium ownership.</p> <p>The application shall include:</p> <ul style="list-style-type: none"> a. Diagrammatic floor plans of the building or buildings built or to be built in sufficient detail to identify each unit, its relative location and approximate dimensions, showing elevations where multilevel or multi-story structures are diagrammed, and b. A declaration and bylaws consistent with the provisions contained in Idaho Code section <u>55-1505</u>. <p>Upon approval of the final subdivision application by the council, subject to any applicable conditions of approval and the provisions of chapter 6, "Administration", of this title, the applicant shall record the declaration, subdivision or subdivisions, deeds, bylaws, administrative provisions, and/or articles of incorporation as provided in Idaho Code section <u>55-1506</u>.</p>

Site Conditions:

- 1) Street Address: 9557 W. State Street
- 2) Parcel Number(s): S0514438580
- 3) Subdivision: PAR #8580 @ S SIDE SW4SE4 SEC 14 4N 1E PARCEL A R/S 10007
- 4) Property Size: 3.03 acres
- 5) Zoning District: C-2 General Commercial
- 6) Zoning Overlay(s): None
- 7) Comprehensive Plan Land Use Map Designation:
 - a) Green Boulevard Corridor
- 8) Legal Lot of Record: Not Determined
- 9) Floodplain Designation:
 - a) 2003 FIRM: Outside of the Special Flood Hazard Area (X)
 - b) 2017 Draft FIRM: 100 Year (AE)
- 10) Surrounding Uses within 600 feet:
 - a) Dwelling Unit, Single family detached.
 - b) Professional Services
 - c) Personal Service
 - d) Church or Place of Religious Worship
- 11) Existing Use: Vacant. However, entitlements for Sleepy Hollow Apartments were approved on 11/25/2019 with design review application, DSRFY2019-10 and subsequent building permits have been issued.
- 12) Easements on site:
 - a) Sidewalk
 - b) Sanitary Sewer and Water Main
- 13) Site Access: West State Street

Project Details:

This request is for a condominium subdivision application is to allow for individual ownership of the dwelling units of a previously approved multi-family development. The associated multi-family application, DSRFY2019-10, was approved on November 12, 2019. This application utilizes those approved documents for this application.

- 1) Proposed development: Residential - Combined Preliminary and Final Plat; Condominium Subdivision
- 2) Total number of residential Units: 44
 - a) Limited Common Areas: The common areas are designated for the exclusive use of an owner or owners to the exclusion, limitation, or restriction of other owners. The common areas of this project include, but are not limited to stairwells, space separating individual units, and public plaza space.
 - b) Common Area: The common area,17,967 square feet, encompasses the entire project, except the units.
 - c) Common Facilities: The common facilities improvements not used for residential purposed constructed upon the common area of the use and enjoyments of the Owners. The common facilities of this project include but are not limited to the children’s play structure and fitness facility.

DSRFY2019-10 Project Particulars

- 1) Number of Buildings: 9 buildings
 - a) Four dwelling structures
 - i) Building A: 3 Story
 - ii) Building B: 3 story
 - iii) Building C: 3 story
 - iv) Building D: 2 story
 - b) One clubhouse structure
 - c) Four garage structures
- 2) Density: 16 Dwellings per acre
- 3) Site Coverage:
 - a) Building: 69,378sq.ft.
 - b) Landscaping: 27,052sq.ft.
 - c) Paved Areas: Not provided
- 4) Access: W. State Street
- 5) Total number of vehicular parking spaces: 104
 - a) Enclosed: 44 In garages and 51 covered
 - b) Surface: 10
- 6) Total number of bicycle parking: 20
- 7) Refuse: The refuse will be two common locations interior to the development;
- 8) Fencing:
 - a) 6’ vinyl fence around west, south, and east perimeter of property
 - b) 3’- 6” wrought iron fence around front perimeter of property
 - c) 4’ vinyl fence to screen HVAC
- 9) Sidewalk:
 - a) Detached proposed along W. State Street
- 10) Landscaping: 27,052sq.ft.
 - a) Street trees are to be provided on South Side of the detached sidewalk along State Street due to ITD requirements.

- b) Parameter Landscaping: DSRFY2019-10 approved landscaping plans
- 11) City Utilities
- a) Garden City Sewer and Water to lots;
 - b) Hydrants approved per DSRFY2019-10 civil plans

D. Decision Process

General Provisions

This application is processed per GCC 8-6A-6 Administrative Process Without Notice.

Required Decisions: The following decision processes are required for the project as governed by GCC Table 8-6A-1:

Decision	Recommendation Authority	Decision Authority
Condominium Subdivision	Planning Official	City Council: February 8, 2021

Required Findings:

For the approval of a COMBINED PRELIMINARY/FINAL PLAT SUBDIVISION, the decision making body must find the application meets the following findings, found in GCC 8-5B-5:

- A. The subdivision is in conformance with the comprehensive plan;
- B. The subdivision is in conformance with all applicable provisions of this title;
- C. Public services are available or can be made available; and are adequate to accommodate the proposed development;
- D. The subdivision is in conformance with scheduled public improvements in accord with the city’s capital improvement program;
- E. There is public financial capability of supporting services for the proposed development;
- F. The development will not be detrimental to the public health, safety or general welfare; and
- G. The development preserves significant natural, scenic or historic features;

Decision:

The Planning Official is the recommending authority of a Condominium Plat (Subdivision).

The City Council is the final decision maker for this application. The decision is an administrative decision and does not require a public hearing.

Decision

The City Council may take one of the following actions:

- 1. Sustain the recommendation as presented to the City Council;
- 2. Modify the recommendation with conditions;
- 3. Reject the recommendations; or
- 4. Remand the application to a recommending body for additional proceedings and findings.

Appeal of Decision:

Pursuant to Garden City Code [Table 8-6A-1 Authorities and Processes](#), the Planning Official is the recommending authority and the City Council is the final decision maker for the requested application. The recommendation of the Planning Official does not constitute a final decision on the application.

The applicant or someone with standing may request City Council to reconsider their decision. A reconsideration request may be made within 14 days of the formal decision being rendered. Final decisions are subject to a 28-day right to judicial review pursuant to The Idaho Administrative Procedures Act, Chapter 65 Title 67 Idaho Code. A takings analysis pursuant to Idaho Code may be requested on final decisions.

E. Code/Policy Review

The below serves as an analysis of applicable provisions Garden City Code, Title 8, Development Code and identified applicable policies, plans, and previous approvals.

Most of Garden City Code has already been analyzed with the DSRFY2019-10 application, therefore, staff comments read “This section of code was analyzed and found to be compliant with the previously approved DSRFY2019-10 application”.

Garden City Title 8 Code Sections			
Code Section	Review Authority	Compliance Issues	Analysis/ Discussion
Title 8, Chapter 1: General Regulations			
8-1A-4 Applicability			The regulations of Garden City Code, Title 8 Development Code of the City, shall apply and govern development and use of all properties within the corporate limits of the city.
8-1B-1 Nonconforming Properties		Compliant as conditioned	<p>The parcel is described as PAR #8580 @ S SIDE SW4SE4 SEC 14 4N 1E PARCEL A R/S 10007 #438576-R. This does not appear to not be a legal lot of record. There is a record of survey from 2015, however, the City cannot acknowledge it as a legal lot due to the lack of a City Engineer and City Development Services signature.</p> <p>There is email documentation between Dave Evans Construction and the Garden City Associate Planner, Chris Samples noting that the parcel is legal in conjunction with DSRFY2019-10, however, there is no supporting documentation in the record documents.</p> <p>Code states that no provisions under [Title 8} shall be granted until a subdivision has been approved and recorded. The applicant could demonstrate that the parcel is legal, if it was in its current form prior to August 9, 1988 or annexed into Garden City in its current form.</p> <p>If the applicant is unable to provide the above documentation, staff suggests that the easiest vehicle to make the parcel legal would be the Minor Land Division process.</p> <p>A potential conditional of approval that has been suggested is that documentation demonstrating that the lot is legal is required or an application and approval of such application to make the lot a legal lot is required prior to the signature of the condominium.</p>
Title 8, Chapter 2: Base Zoning District Regulations			
8-2B-1 Purpose	PO/CC	No compliance issues noted	The application proposed 16 dwelling units per acre. The subdivision specifically requests entitlements for the division of airspace for their condominium subdivision. Their condominium subdivision consists of three 12-plex multifamily buildings and one 8-plex multifamily building to accommodate private ownership of individual dwelling units. The project also includes a clubhouse and four garage structures.

8-2B-2 Allowed Uses	PO/CC	Complaint as conditioned	Multifamily Dwellings are a permitted use. The application includes condominiumizing the garages. A potential condition of approval to ensure compliance with the allowed uses could be that the CC&Rs must note that the garages are 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.
8-2B-3 Form Standards			This application is not proposing changing any form standards to that which was previously approved DSRFY2019-10 application.
8-2C-15 Dwelling Unit, Multifamily			This section of code was analyzed and found to be compliant with the previously approved DSRFY2019-10 application.
8-4A General Provisions			This section of code was analyzed and found to be compliant with the previously approved DSRFY2019-10 application.
8-4B Residential Design Provisions			This section of code was analyzed and found to be compliant with the previously approved DSRFY2019-10 application.
8-4D Parking and Loading Provisions			This section of code was analyzed and found to be compliant with the previously approved DSRFY2019-10 application.
8-4E Transportation and Connectivity Provisions			This section of code was analyzed and found to be compliant with the previously approved DSRFY2019-10 application.
8-4H Flood Hazard			The project is outside of the regulatory floodplain. During the review of the building permits for the structures, it was noted that if the structures were built below the anticipated base flood elevations as identified in the 2020 Flood Insurance Study that there could be significant economic impacts to future owners due to federally backed flood insurance requirements.
8-4I Landscaping and Tree Protection Provisions			This section of code was analyzed and found to be compliant with the previously approved DSRFY2019-10 application.
8-4L Open Space Standards			This section of code was analyzed and found to be compliant with the previously approved DSRFY2019-10 application.
Title 8, Chapter 5 Article A: Land Division Regulations – General Provisions and Standards			
8-5A-4 General Standards	PO/CC	No compliance issues noted	GCC 8-5A-2 notes that the provisions of GCC 8-5A shall apply to the subdividing of land within the corporate limits of the city and properties within the area of city impact. However, when looking at the scope as identified by 8-5A-3, arguably this code section may not apply as it is stated that it applies to the division of land . With this being said, there are no compliance issues noted with this section of code. See sections related to review of 8-4 B&C; Driveways 8-4-E; Floodplain 8-4H; Landscaping 8-4-I; Open Space 8-4-L; Parking 8-4-D; Planned Unit Development 8-6B; Private Streets 8-4-E; Sidewalks 8-4-E; Street design and development standards 8-4-G; Sustainable development provisions 8-4-G; Utilities 8-4-A; Zoning Provisions 8-2-B

			The Sleepy Hollow Subdivision was reviewed for conformance with the requirements of Garden City Code Erosion Control 4-15; Public water and sewer systems Title 6; Storm drainage and discharge control 4-14 prior to the approval of the subdivision.
8-5A-6 Improvement Standards		Compliant as conditioned	The application, DSRFY2019-10 was approved with conditions that which meet all requirements of this section of code. A potential condition for approval of this application can be that signature is contingent upon adhering to all conditions and approved documents of application DSRFY2019-10.
<u>8-5C-4 Subdivisions located within a Floodplain</u>			
8-5C-4 Subdivisions located within a Floodplain	PO/CC	Not Applicable	This application is not proposing construction nor is it within the regulatory floodplain.
Title 8, Chapter 6, Article A: Administration			
8-6A-3 General Application Process	PO/CC	No compliance issues noted	The application was reviewed and considered complete within 30 days of submittal, a notice of application acceptance was issued to the applicant, and staff started processing the application.
8-6A-4 Required Application Information	PO/CC	No concerns noted	There have been no application waivers submitted.
8-6B Planned Unit Development	DC/PZ/CC	Not Applicable	This section of code has been left in the review, due to GCC 8-5A requiring that this section of code is considered during a subdivision application.

Other Items Reviewed	
Plan/Policy	Discussion/ Analysis
Idaho Code 67-6513 Local Land Use Planning Subdivision Ordinance	<p>Garden City has, by ordinance, adopted hearing procedures compliant with section 67-6509, Idaho Code, for standards and for the processing of applications for subdivision permits under sections 50-1301 through 50-1329, Idaho Code.</p> <p>This statute enables Garden City regulations to provide for mitigation of the effects of subdivision development on the ability of political subdivisions of the state, to deliver services without compromising quality of service delivery to current residents or imposing substantial additional costs upon current residents to accommodate the proposed subdivision.</p> <p>This section notes that denial of a subdivision permit or approval of a subdivision permit with conditions unacceptable to the landowner may be subject to the regulatory taking analysis provided for by section 67-8003, Idaho Code, consistent with the requirements established thereby.</p>
Idaho Code Title 55	Notable provisions of Idaho Code Title 55 include:

	<p>55-101. REAL PROPERTY DEFINED. Real property or real estate consists of:</p> <ol style="list-style-type: none"> 1. Lands, possessory rights to land, ditch and water rights, and mining claims, both lode and placer. 2. That which is affixed to land. 3. That which is appurtenant to land. <p>55-101A. "LANDS" DEFINED. Lands are the material of the earth, whatever may be the ingredients of which it is composed, whether soil, rock or other substance, and include free or occupied space for an indefinite distance upwards as well as downwards, subject to limitations upon the use of airspace imposed and rights in the use of airspace granted, by law.</p> <p>55-101B. "CONDOMINIUM" DEFINED. A condominium is an estate consisting of (i) an undivided interest in common in real property, in an interest or interests in real property, or in any combination thereof, together with (ii) a separate interest in real property, in an interest or interests in real property, or in any combination thereof.</p> <p>55-103. WHO MAY OWN PROPERTY. Any person, whether citizen or alien, may take, hold and dispose of property, real or personal.</p> <p>55-104. INTERESTS IN COMMON. Every interest created in favor of several persons in their own right is an interest in common, unless acquired by them in partnership, for partnership purposes, or unless declared in its creation to be a joint interest, or unless acquired as community property.</p>
<p>Previous entitlement that might affect this project</p>	<p>DSRFY2019-10: Sleepy Hollow Apartments were approved at the November 15, 2019 City Council hearing. Subsequent building permits have also been issued and are currently under construction.</p>
<p>Garden City Comprehensive Plan</p>	<p>This application would not change anything other than to allow for multiple ownerships of an existing project. This may be supportive of:</p> <p>Goal 6. Diversity in Housing</p> <ol style="list-style-type: none"> a) 6.2 Objective: Continue to be a leader and set an example for the region in creating a diversity of housing.
<p>Garden City Sidewalk Policy</p>	<p>The Sidewalk Policy was reviewed with this application. 8-4E-6 and the Sidewalk Policy require sidewalks for new development. As noted in this report, the applicant has proposed a detached sidewalk, but there were challenges with the placement of required trees.</p>
<p>Garden City Street Light Policy</p>	<p>The DSRFY2019-10 application proposes the installation of a light pole near the west side of the access on State Street, making the site compliant this policy.</p>