

BEFORE THE PLANNING AND ZONING COMMISSION
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:)	SUBFY2021-0009
)	
)	
Combined Preliminary and Final Plat Subdivision)	
Planned Unit Development)	FINDINGS OF FACT
512 E. 43 rd Street)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho)	ANDRECCOMENDATION
_____)	

THIS MATTER came before the Planning and Zoning Commission for consideration on December 15, 2021, January 19, 2022, and March 16, 2022. The Garden City Planning and Zoning Commission reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, the Garden City Planning and Zoning Commission makes the following Findings of Fact, Conclusions of Law and Recommendation:

FINDINGS OF FACT

1. The application is for a Combined Preliminary and Final Plat processed as a Planned Unit Development subdivision.
2. The applicant is Julie Miller
3. The property owner of record is River Trail LLC.
4. The location of the project is 512 E. 43rd Street; Taxing Parcel Number: R2734521651; Property is described as LOT 8 & N'ELY 1/2 LOT 7 BLK 18 FAIRVIEW ACRES SUB NO 03.
5. The subject property is 1.033 acres.
6. The project is located in the Mixed Use Residential and the Activity Node: Neighborhood Destination 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 located in the floodplain according to FEMAs most recent modeling of the Lower Boise River.
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 8-1: General Regulations
 - b. Garden City Code 8-5: Land Division Regulations
 - c. Garden City Code 8-2B: Base Zoning District Regulations
 - d. Garden City Code 8-4A: Design and Development Regulations – General Provisions
 - e. Garden City Code 8-4B: Design and Development Regulations – Design Provisions for Residential Structures
 - f. Garden City Code 8-4D: Parking and Off-Street Loading Provisions
 - g. Garden City Code 8-4E: Transportation and Connectivity Provisions
 - h. Garden City Code 8-4H: Flood Hazard
 - i. Garden City Code 8-4G: Sustainable Development Provisions
 - j. Garden City Code 8-4I: Landscaping and Tree Protection Provisions
 - k. Garden City Code 8-4L: Open Space Provisions
 - l. Garden City Code 8-6A: Administration – General Provisions
 - m. Garden City Code 8-6B-7 Planned Unit Development
 - n. Garden City Code 4-14: Storm Drainage and Erosion Control
 - o. 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	Waived	
X			Compliance Statement
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
X			Engineering drawing and Specifications

	X	Natural Hazards and Resource Analysis
	X	Dedications and Easements
X		Covenants and Deed Restrictions PUD too
	X	Will Serve
	X	Subdivision Name Reservation
	X	Verification that address is an Ada County Approved Address*

*Items that may be required for reviews later.

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

Noticing Requirement	Required Date	Completion Date
Receipt of application	11/09/2021	09/15/2021 – non-Acceptance 10/19/2021 – Accepted with additional materials needed.
Letter of Acceptance	11/19/2021	09/20/2021 – non-Acceptance letter sent 11/03/2021 – Acceptance letter sent
Radius Notice	12/01/2021	11/04/2021
Interested Parties	n/a	n/a
Legal Notice	12/26/2021	11/04/2021
Agency Notice	12/01/2021	11/04/2021
Property Posting Sign	12/05/2021	12/03/2021
Affidavit of Property Posting and Photos	12/08/2021	11/07/2021

14. Agency Comments were received from:

- a. City Engineer; November 25, 2021
- b. Republic Services; November 9, 2021
- c. NACFR; November 8, 2021
- d. DEQ; November 19, 2021

15. Public Comments were received from:

- a. Joseph Brown; January 18, 2022

16. On December 15, 2021, the Garden City Planning and Zoning Commission recommended that the item be moved to the date certain of January 19, 2022, based on the applicant's request.

17. On January 19, 2022, the Garden City Planning and Zoning Commission recommended that the item be moved to the date certain of March 16, 2022.

18. On March 16, 2022, the Garden City Planning and Zoning Commission recommended Approval/ Denial of the application subject to the following conditions:

a. Condition

19. The record contains:

- a. Application
- b. Noticing Documents
- c. Agency Comments
- d. Public Comments
- e. Planning and Zoning Minutes and Hearing Audio: December 15, 2021
- f. Planning and Zoning Minutes and Hearing Audio: January 19, 2022
- g. Planning and Zoning Minutes and Hearing Audio: March 16, 2022
- h. Planning and Zoning Commission Recommendation

20. In consideration of a combined preliminary and final plat subdivision the decision maker shall make the following findings:

The draft findings are written both in approval and in denial. The Planning and Zoning Commission may select the explanations that correspond to their conclusions or amend the explanations based on the record that they have reviewed. Potential explanations have been provided.			
GCC 8-5B-5: SUBDIVISION PROCESS: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<p>Finding 1. The subdivision is in conformance with the Comprehensive Plan;</p> <p>Explanation:</p> <p>In Approval: The application is cohesive with the Comprehensive Plan’s Activity node of a Neighborhood Destination in that the project is a three-story, townhome, high density residential development. It is also cohesive with the Mixed-Use Residential designation of the Comprehensive Plan by proposing solely residential units that are more urban in nature and in design.</p> <p>In Denial: The application is not cohesive with the Comprehensive Plan’s neighborhood feel of the Neighborhood</p>

			<p>Destination land use. The proposal does not achieve the necessary design standards to generate an enjoyable destination location. Additionally, the proposal does little to address the street and create a compatible transition from the development to the surrounding uses.</p>
X		X	<p>Finding 2. The subdivision is in conformance with all applicable provisions of this title;</p> <p>Explanation: In approval: As conditioned, the application is in conformance with the applicable sections of Garden City Code. In Denial: The application is not in conformance with the applicable sections of Garden City Code as there was not enough information to review thoroughly. The application was found to not be in conformance with the applicable sections of Code.</p>
X		X	<p>Finding 3. Public services are available or can be made available; and are adequate to accommodate the proposed development;</p> <p>Explanation: In Approval: There are public services available that can accommodate the proposed development. In Denial: There is inadequate information provided to verify that public services can accommodate the proposal.</p>
X		X	<p>Finding 4. The subdivision is in conformance with scheduled public improvements in accord with the city's capital improvement program;</p> <p>Explanation: In Approval: The subdivision does not undermine scheduled public improvements or the City's capital improvement program.</p>

			In Denial: The subdivision undermines the scheduled public improvements and the City's capital improvement program.
X		X	<p>Finding 5. There is public financial capability of supporting services for the proposed development</p> <p>In Approval: 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> <p>In Denial: Without ability to serve information the application does not meet this finding.</p>
X		X	<p>Finding 6. The development will not be detrimental to the public health, safety, or general welfare;</p> <p>Explanation:</p> <p>In Approval: The application proposes to maintain the existing attached sidewalks along 43rd Street in addition to providing connectivity throughout the site. The maintained connectivity between the Greenbelt and 43rd Street helps promote general welfare of the community and provides a safe path that which pedestrians and bicyclists can use.</p> <p>In Denial: The lack of adherence to City Codes and the City's Comprehensive Plan is detrimental to the welfare of the city.</p>
X		X	<p>Finding 7. The development preserves significant natural, scenic, or historic resources.</p> <p>Explanation:</p> <p>In Approval: The application integrates with the surrounding urban area and proposes to landscape and beautify the development site.</p> <p>In Denial: The development does not adequately address the Greenbelt and Boise River, nor does it provide</p>

			complementary trees and vegetation for its location adjacent to the river.
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21. In consideration of a planned unit development, the decision maker shall make the following findings:

<p>The draft findings are written both in approval and in denial. The Planning and Zoning Commission may select the explanations that correspond to their conclusions or amend the explanations based on the record that they have reviewed. Potential explanations have been provided.</p>			
<p>GCC 8-6B-7: PLANNED UNIT DEVELOPMENT: REQUIRED FINDINGS</p>			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X		X	<p>Finding 1. The applicant has demonstrated that the proposed development can be initiated within two (2) years of the date of approval;</p> <p>Explanation: In Approval: Approval of this application is conditioned that the development shall be initiated within two years of the date of approval. In Denial: The application has not provided documentation that the development will be initiated within two years of the date of approval.</p>
X		X	<p>Finding 2. 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:</p>

			<p>In Approval: The proposed development and each structure can successfully exist independently of the surrounding area and will not be detrimental to the surrounding neighborhood.</p> <p>In Denial: If the entire project fails to be completed the components of the development cannot sustainably continue.</p>
X		X	<p>Finding 3. 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: In Approval: The proposed development has a common drive that is capable of handling anticipated traffic which will provide ingress/egress onto 43rd Street. The PUD is not large enough to trigger a traffic impact analysis.</p> <p>In Denial: The functionality of the PUD subdivision will cause an increase of traffic density to which will cause an overload to the street network. Additionally, ACHD has not provided any comments regarding the development and the impact it will have on the street systems or any improvements.</p>
	X		<p>Finding 4. Any proposed commercial development can be justified at the locations proposed.</p> <p>Explanation: Not Applicable: This development does not propose any commercial aspects.</p>
X		X	<p>Finding 5. 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: In Approval: This application meets the provisions identified by the planned unit development process. The requested waivers provide for a more useful pattern of open space and recreation areas, as well as convenience in the location of residential uses. The layout of the project preserves and utilizes the natural features of the site and preserves existing trees.</p> <p>The application provides a choice of living environments through providing a variety of floorplans that will address different needs of different individuals and families.</p> <p>In Denial: The exception from standard district requirements is not warranted as they result in a proposal that is over taxing of the location. The subdivision does not propose to maintain any existing landscaping and proposes only Class I trees that will not mature into dense urban canopy that is required of new developments.</p>
X		X	<p>Finding 6. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development;</p> <p>Explanation: In Approval: The proposal is compatible with the surrounding uses and the neighborhood vision.</p> <p>The proposal is a component of the overall neighborhood. The types of housing and uses will provide for more comprehensive variety of residential options in the neighborhood.</p> <p>In Denial:</p>

			The proposed development is not compatible with the surrounding uses nor the neighborhood vision.
X		X	<p>Finding 7. The PUD is in general conformance with the comprehensive plan;</p> <p>Explanation: In Approval: 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> <p>In Denial: The application cannot be found in conformance with the comprehensive plan as it does not adequately focus on the river, does not provide appropriate landscaping materials along 43rd Street, does not adequately provide connectivity throughout the site, and diminishes the relationship between the development and the public realm by the not proposing units that front the street.</p>
X		X	<p>Finding 8. The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed;</p> <p>Explanation: In Approval: 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> <p>In Denial: Without ability to serve information the application does not meet this finding.</p>
GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X		X	Finding 1. The use is appropriate to the location, the lot, and the neighborhood,

			<p>and is compatible with the uses permitted in the applicable zoning district;</p> <p>Explanation: In Approval: The application is compatible with the surrounding uses and is a permitted use within the C-2 zoning district. The application meets the setback standards set forth in Garden City code, and any deviations have been conditioned for compliance or waived as part of the planned unit development.</p> <p>In Denial: The application is not appropriate to the location or the neighborhood as the proposal is more intensive than what is envisioned by the Mixed-Use Residential designation of the Comprehensive Plan. Furthermore, the application cuts adjacent properties off, and ignores its location adjacent to 43rd Street.</p>
X		X	<p>Finding 2. 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: In Approval: 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> <p>In Denial: The subdivision does not meet this finding as the Ability to Serve Letter was never submitted reviewed. Furthermore, the proposal is under parked.</p>
X		X	<p>Finding 3. The use will not unreasonably diminish either the health, safety, or welfare of the community;</p> <p>Explanation: In Approval: There is no evidence that the proposal is detrimental to the public</p>

			health, safety, or general welfare of the community. In Denial: The lack of adherence to City Codes and the City's Comprehensive Plan is detrimental to the welfare of the city.
X		X	Finding 4. The use is no in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city. Explanation: In Approval: The reviewed sections are in conformance with this finding. The comprehensive plan objectives reviewed, and land use designation support this application. In Denial: The project is not complaint with Garden City Code 8-4A-7; 8-4A-8; 8-4B; 8-4I; 8-4L. The project is not complaint with the definition of Live-Work-Create; 2.1.4; 2.4.5; Goal 4; Goal 5; and Goal 7

22. The record was reviewed in its entirety by the Planning and Zoning Commission to render the decision.

CONCLUSIONS OF LAW

The Garden City Planning and Zoning 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, 8-6B-2, and 8-6B-7.

RECOMMENDATION

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and Decision, the Garden City Planning and Zoning Commission hereby recommends **APPROVAL/DENIAL** application SUBFY2021-0009 for a Combined Preliminary and Final Plat Subdivision processed as a Planned Unit Development and subject to the following conditions:

Prior to City Signature on Plat:

1. The ability to serve shall be provided.
2. Common driveways, open space, and other common areas shall be included in an easement or on a common lot.
3. Easements
 - a. As required by the City Engineer or this decision easements shall be provided.
 - b. All easements must be noted on the plat either directly or by instrument number (generally preferred method) or otherwise recorded.
 - c. Easements shall define the grantee and adequate information to depict the location of the easement such as a legal description and illustration.
 - d. Easements shall be unobstructed unless otherwise specified.
 - e. At a minimum, the following easements shall be provided:
 - i. Public Utility Easement
 - ii. Water and Sewer Easement
 - iii. Drainage Easement
 - iv. Common Open Space Easement
4. Provide a note on the final plat to read, "Building setback lines shall be in accordance with the approved planned unit development application, Garden City file number SUBFY2021-0009".
 - a. The approved reductions from code required setback are:
 - i. Building setback lines may be 0' setback for structures within the subdivision's limits.
5. All common open spaces shall be located on common lots and noted as unbuildable on the plat.
6. A building envelope within which future building footprints will be located shall be shown on the lots.
7. The CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho."
8. Evidence that all original lots of legal record are legally divided shall be provided to the City.

Prior to approval of construction plans:

1. The site plan and subsequent construction shall be in conformance with this approval as reviewed and approved or otherwise conditioned.
2. Landscaping
 - a. The landscaping shall be in conformance with this approval as reviewed and approved or otherwise conditioned.

- b. If any trees are to be removed from the site, a tree mitigation plan must be submitted and in compliance with GCC 8-4I-7 Tree preservation provisions.
 - i. Any trees removed prior to the certified arborist's report being submitted will be considered to have been healthy, and thus, mitigation will be required.
 - c. A minimum of one class III or class II tree shall be planted in the frontage and every adjacent streetside. An additional tree shall be planted in the corresponding setback for every increment of fifty feet (50') of linear feet of frontage.
 - d. 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.
 - e. 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.
 - f. 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.
 - g. All 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.
 - h. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
3. All light fixtures must be compliant with Garden City Code 8-4A-4 Outdoor Lighting.
4. All outdoor service and equipment areas shall comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
5. All utilities on the site and in the right-of-way adjacent to the site, including telephone, cable television, and electrical systems shall be underground and in compliance with Garden City Code 8-4A-8.
6. Pressurized irrigation shall be provided in conformance with Garden City Code 8-5A-5H. 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.

7. Contrasting hardscape material shall be installed at the intersection of the common drive and 43rd Street to better identify the pedestrian crossings along 43rd Street.
8. At least two bike parking spaces shall be provided on the site.
 - a. Bicycle parking spaces shall be placed in such a way that when mounting and dismounting the bicycles do not reverse into the sidewalk traffic area, the common drive, nor 43rd Street.
 - b. All bicycle parking shall be located so as to not prevent the sidewalk traffic from maintaining a continuous momentum.
9. All units adjacent to streets shall have a primary entrance on the street.
10. All Landscaping shall be found in conformance with Garden City Code 8-4I Landscaping and Tree Protection Provisions.
 - a. Approval of street trees shall be determined by the Development Services Department Staff.
11. The ability to serve shall be provided.
12. Driveway openings in curbs shall comply with the requirements of the Transportation Authority.
13. All stormwater systems must comply with Garden City Code 8-4A-7.
14. 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.

Prior to approval of building permits for structures:

1. All structures shall adhere to the requirements of GCC 8-4H Flood Hazard should the FEMA flood insurance maps be updated prior to building permit submittal.
2. All structures that are not in the regulatory floodplain but are anticipated to be in the floodplain per the FEMA Flood Insurance Study of 2020, except for those dedicated solely to storage, access, or parking, and utilities thereof, shall be built with the lowest floor at or above the anticipated base flood elevation, refer to Garden City resolution 1083-20.
 - a. An elevation certificate shall be submitted to the City verifying compliance with this condition
3. All structures that are not in the regulatory floodplain, but are anticipated to be in the floodplain per the FEMA Flood Insurance Study of 2020, except for those dedicated solely to storage, access, or parking, and utilities thereof, shall be built with the lowest floor at or above the anticipated base flood elevation, refer to

Garden City resolution 1083-20.

4. An elevation certificate shall be submitted to the city verifying compliance with this condition.
5. Submit a sustainability checklist that demonstrate compliance with or an exemption from Garden City Code 8-4G for lot.
6. The subdivision must obtain Ada County Approved addresses for all new lots prior to submitting for a building permit.
7. All HVAC systems shall be identified on plans and be screened to be compliant with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
8. All units adjacent to streets shall have a primary entrance on the street.

For the Duration of the Use:

1. Bicycle parking spaces shall be placed in such a way that when mounting and dismounting the bicycles do not reverse into the sidewalk traffic area, the common drive, nor 43rd Street.
2. All streets and driveways shall adhere to the standards of a clear vision triangle.
3. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
4. Landscaping:
 - a. The property owner is responsible for the maintenance of all landscaping and screening devices required.
 - b. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem.
 - c. Dead plant materials shall be replaced equal or larger species.
 - d. 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.
 - e. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
 - f. 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.
 - g. The landscape installation shall stabilize all soil and slopes.
5. A three-foot (3') clearance zone shall be maintained around the circumference of fire hydrants.

6. All outdoor living spaces must comply with Garden City Code 8-3C General Provisions- Living Space Requirements.
7. Setbacks for all lots shall be from the property lines.

Entitlement:

1. This approval is for a combined preliminary and final plat for a residential subdivision encompassing 21 lots – 20 lots are to be designated for residential use, 1 lot is to be designated as a common lot.
2. Approved waivers to Garden City Code, Title 8 regulations include:
 - a. Setbacks, allowing for interior of the development 0'; and
 - b. More than four dwelling units being served through a common drive, allowing for 20 units to be served on a common drive;
 - c. Guest parking; allowing for seven guest parking spaces versus the required ten.
3. 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.
4. The development shall be initiated within two (2) years of the date of approval.
5. The applicant shall comply with all requirements of the reviewing entities.
6. 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.
7. Approval of the subdivision does not constitute as the approval for any uses.
8. The approved addresses and a copy of the recorded plat must be provided to the city prior to the city considering the subdivision complete.
9. The approval is specific to the application provided and reviewed.
10. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained.

11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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 have 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.
17. The Development Services Director may enter into a restricted build agreement on the City's behalf, provided the agreement is compliant with the approved restricted build agreement policies.
18. This approval shall expire 365 days from its approval, unless otherwise extended as allowed by Garden City Code.

19. 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.
20. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
21. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
22. 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.
23. A takings analysis pursuant to Idaho Code may be requested on final decisions.
24. 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.

Chairman, Planning and Zoning Commission

Date

STANDARD CONDITIONS FOR DENIAL DECISION

1. In order for approval by Garden City, the proposal must be in compliance with all standards of 8-5B-5, 8-6B-2, and 8-6B-7. This project is not in compliance with 8-5B-5, 8-6B-2, and 8-6B-7 standard(s) because it is not in compliance with the Garden City Comprehensive Plan Sections section(s) 6 Diversity in Housing, the Future Land Use Designation of Mixed-Use Residential and Garden City Code 8-4L; 8-4I; and 8-4B. Compliance can be met by providing adequate common open space; adhering to setbacks; providing a scale and form more align with the existing and planned neighborhood; and having more interconnectivity within the site.
2. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
3. 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.
4. A takings analysis pursuant to Idaho Code may be requested on final decisions.
5. 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.

Chairman, Planning and Zoning Commission

Date

DRAFT