

BEFORE THE GARDEN CITY PLANNING AND ZONING COMMISSION  
GARDEN CITY, ADA COUNTY, IDAHO

|  |   |                     |
|--|---|---------------------|
| In the Matter of:                      | ) | SUBFY2024-0001      |
|  | ) |                     |
| Preliminary and Final Plat Subdivision | ) |                     |
| Planned Unit Development               | ) | FINDINGS OF FACT    |
| 8875 W. State Street                   | ) | CONCLUSIONS OF LAW, |
| Garden City, Ada County, Idaho         | ) | ANDRECOMMENDATION   |
| _____                                  | ) |                     |

THIS MATTER, came before the Garden City Planning and Zoning Commission for consideration on March 20, 2024. 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 Jason Densmer.
3. The property owner of record is MSP GARDEN CITY BFR LLC.
4. The location of the project is 8875 W. State Street; Ada County Taxing Parcel Number: R8123252150; Property is described as PAR #2150 OF LOTS 12 13 & 14 STEINS SUB PAR A ROS 13175 #2148C #2165C.
5. The subject property is 6.600 acres.
6. The project is located in the Green Boulevard Corridor and the Residential Low Density designations of the Comprehensive Plan Future Land Use Map.
7. The project is in the C-2DA Zoning District.
8. The project is not located in the floodplain according to the 2003 FIRM.
9. The project is partially located in the floodplain according to FEMA's most recent modeling of the Lower Boise River, adopted by resolution 1083-20.
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 8-5: Land Division Regulations
  - b. Garden City Code 8-1A General 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:

| <b>Materials Provided Per GCC Table 8-6A-2 Required Application Information</b> |    |        |  |
|---|----|--------|--|
| Provided  |    |        |  |
| Yes   | No | Waived |  |
| X   |    |        | Compliance Statement                   |
| X   |    |        | Preliminary Title Report               |
| X   |    |        | Neighborhood Map                       |
| X   |    |        | Subdivision Map                        |
|   |    |        | 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        |
| 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 <sup>1</sup> | Completion Date |
|--|----------------------------|-----------------|
| Receipt of application                   |                            | 01/05/2024      |
| Letter of Acceptance                     |                            | 02/22/2024      |
| Radius Notice                            | 03/05/2024                 | 02/14/2024      |
| Interested Parties                       | n/a                        | n/a             |
| Legal Notice                             | 03/01/2024                 | 02/14/2024      |
| Agency Notice                            | 03/15/2024                 | 01/17/2024      |
| Property Posting Sign                    | 03/10/2024                 | 03/08/2024      |
| Affidavit of Property Posting and Photos | 03/13/2024                 | 03/11/2024      |

14. Agency Comments were received from:

- a. ACHD on January 24, 2024;
- b. City Engineer on January 20, 2024;
- c. DEQ on January 24, 2024;
- d. Sawtooth Law Offices on January 18, 2024.

15. Written Public Comments were received from:

- a. Allison McGeachin on January 19, 2024;
- b. Melissa Bahr on January 21, 2024;
- c. Rober Fulwyler on February 18, 2024.

16. On March 20, 2024, a public hearing before the Garden City 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. The applicant, Jason Densmer, noted that he was in attendance and that he agreed with the decision and conditions as drafted in the affirmative.
- c. There was one person from the public who wished to testify.
- d. The Chairman noted that the application would be heard.
- e. At the end of the meeting, Commissioner Sheppard re-opened the consent agenda to include SUBFY2024-0001, due to no one being from the public to testify on the application.

<sup>1</sup> This date is based on the date of the first of any public hearing scheduled.

- f. The staff nor any member of the Commission noted a reason why this item needed to be heard.
- g. The application was moved to the consent agenda and approved.

17. The record contains:

- a. Application
- b. Noticing Documents
- c. Agency Comments
- d. Public Comments
- e. Planning and Zoning Minutes and Hearing Audio: March 20, 2024
- f. Planning and Zoning Commission Recommendation

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

| <b>GCC 8-5B-5: SUBDIVISION PROCESS: REQUIRED FINDINGS</b> |                                    |               |  |
|---|------------------------------------|---------------|--|
| Conclusion  |                                    |               | Standard   |
| Compliant   | Not Applicable to this Application | Not Compliant |  |
| X   |                                    |               | <p><b>Finding 1.</b> The subdivision is in conformance with the Comprehensive Plan;</p> <p><b>Explanation:</b><br/>           The application is cohesive with the Comprehensive Plan’s Green Boulevard Corridor land use designation as it proposes a multi-use pathway along W. State Street allowing for safer multi-modal transportation options along the corridor. It helps to create a boulevard by including landscaping between the State Street right-of-way and the pathway, while lining the subdivision frontage with trees. It is also cohesive with the Residential Low Density land use designation of the Comprehensive Plan by providing attached housing near a major arterial.</p> <p>The application is in conformance with the Comprehensive Plan’s Goal 1 Nurture the City, Goal 2 Improve the City Image, Goal 4 Emphasize the “Garden” in Garden City, Goal 5 Focus on the River, Goal 6 Diversity in Housing, Goal 7 Connect the</p> |

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|   |  |  | City, Goal 10 Plan for the Future.  |
| X |  |  | <p><b>Finding 2.</b> The subdivision is in conformance with all applicable provisions of this title;</p> <p><b>Explanation:</b><br/>As conditioned, and with the approved waivers to code via the Planned Unit Development process, the application is in conformance with the applicable sections of Garden City Code.</p>   |
| X |  |  | <p><b>Finding 3.</b> Public services are available or can be made available; and are adequate to accommodate the proposed development;</p> <p><b>Explanation:</b><br/>Public services can be made available that can accommodate the proposed development. There is an existing approved Public Works permit on file, PWUFY2022-0001 for the infrastructure improvements.</p> |
| X |  |  | <p><b>Finding 4.</b> The subdivision is in conformance with scheduled public improvements in accord with the city's capital improvement program;</p> <p><b>Explanation:</b><br/>The subdivision does not undermine scheduled public improvements or the City's capital improvement program.</p>   |
| X |  |  | <p><b>Finding 5.</b> There is public financial capability of supporting services for the proposed development.</p> <p><b>Explanation:</b><br/>The application has provided the ability to serve letter, and undergone review and approval of a Public Works permit to make the necessary service improvement.</p>   |
| X |  |  | <p><b>Finding 6.</b> The development will not be detrimental to the public health, safety, or general welfare;</p>  |

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|   |  |  | <p><b>Explanation:</b><br/>This proposal will not unreasonably diminish the health, safety, or welfare of the community. The addition of public pedestrian facilities along W. State St. as well as the public easement along the Dry Creek Canal for future pathway connections enhances the health, safety, and general welfare of the neighborhood and surrounding community. The landscaped common open space and amenity areas of the subdivision help contribute to the welfare of the residents.</p> |
| X |  |  | <p><b>Finding 7.</b> The development preserves significant natural, scenic, or historic resources.</p> <p><b>Explanation:</b><br/>The application integrates with the surrounding urban area, and proposes to landscape the development site. Despite removing all existing trees from the site, the replacement calipers will eventually provide a larger urban tree canopy than what currently exists.</p>  |

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

| <b>GCC 8-6B-7: PLANNED UNIT DEVELOPMENT: REQUIRED FINDINGS</b> |                                    |               |   |
|--|------------------------------------|---------------|---|
| Conclusion   |                                    |               | Standard  |
| Compliant  | Not Applicable to this Application | Not Compliant |   |
| X  |                                    |               | <p><b>Finding 1.</b> The applicant has demonstrated that the proposed development can be initiated within two (2) years of the date of approval;</p> <p><b>Explanation:</b><br/>Approval of this application is conditioned that the development shall be initiated within two years of the date of approval.</p> |

|   |   |  |   |
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| X |   |  | <p><b>Finding 2.</b> 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><b>Explanation:</b><br/>The proposed development and each structure can successfully exist independently of the surrounding area and will not be detrimental to the surrounding neighborhood.</p>  |
| X |   |  | <p><b>Finding 3.</b> 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><b>Explanation:</b><br/>The proposed development has a private drive that is capable of handling anticipated traffic which will provide ingress/egress onto W. State Street. The PUD is not large enough to trigger a traffic impact analysis per ACHD standards.</p>  |
|   | X |  | <p><b>Finding 4.</b> Any proposed commercial development can be justified at the locations proposed.</p>  |
|   |   |  | <p><b>Not Applicable:</b> The proposed project does not include commercial development.</p>   |
| X |   |  | <p><b>Finding 5.</b> Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan, in</p>  |

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|   |  |  | <p>accordance with the PUD and the adopted policy of the council</p> <p><b>Explanation:</b><br/> 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 mitigates for the existing trees.</p> <p>The application provides a choice of living environments through providing a variety of floorplans and attached or detached dwelling units that will address different needs of different individuals and families. The buildings provide architectural variation.</p> |
| X |  |  | <p><b>Finding 6.</b> The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development;</p> <p><b>Explanation:</b><br/> 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>   |
| X |  |  | <p><b>Finding 7.</b> The PUD is in general conformance with the comprehensive plan;</p> <p><b>Explanation:</b><br/> With the unique design of the dwellings and increase in density, this development may be considered compatible with the</p>  |



|  |                                    |               |  |
|--|------------------------------------|---------------|--|
|  |                                    |               | City's Green Boulevard Corridor designation of the Comprehensive Plan.   |
| X  |                                    |               | <p><b>Finding 8.</b> The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed;</p> <p><b>Explanation:</b><br/>Approval of this application is contingent upon the PWUFY2022-0001 conditions and approved constructions plans are inspected and found in compliance.</p>   |
| <b>GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS</b> |                                    |               |  |
| Conclusion   |                                    |               |  |
| Compliant  | Not Applicable to this Application | Not Compliant | Standard   |
| X  |                                    |               | <p><b>Finding 1.</b> 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><b>Explanation:</b><br/>The application is cohesive with the Comprehensive Plan's designations is compatible with the surrounding uses, and is permitted within the C-2 zoning district.</p> |
| X  |                                    |               | <p><b>Finding 2.</b> 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><b>Explanation:</b><br/>Approval of this application is contingent upon the PWUFY2022-0001 conditions and approved constructions plans are inspected and found in compliance.</p>     |
| X  |                                    |               | <p><b>Finding 3.</b> The use will not unreasonably diminish either the health, safety, or welfare of the community;</p>  |

|   |  |  |   |
|---|--|--|---|
|   |  |  | <p><b>Explanation:</b><br/>There is no evidence that the proposal is detrimental to the public health, safety, or general welfare of the community.</p>   |
| X |  |  | <p><b>Finding 4.</b> The use is no in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.</p> <p><b>Explanation:</b><br/>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 in its entirety by the Planning and Zoning Commission to render the decision.

### CONCLUSIONS OF LAW

The Garden City Planning and Zoning Commission 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.

### RECOMMENDATION

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and Decision, the Garden City Planning and Zoning Commission hereby recommends **APPROVAL** application SUBFY2024-0001 for a Combined Preliminary and Final Plat Subdivision processed as a Planned Unit Development and is subject to the following conditions:

**Prior to City Signature on Plat:**

1. The final plat shall be in conformance with this approval as reviewed and approved or otherwise conditioned through this approval.
2. Vehicular parking and bicycle parking shall be found in conformance with DSRFY2021-0015.
3. The landscaping shall be in conformance with the DSRFY2021-0015 approval as reviewed and approved or otherwise conditioned.
  - a. A certified arborist report shall be submitted.

- b. The landscaping plan may be amended, and reviewed at a staff level, to ensure compliance with Garden City Code 8-4I Landscaping and Tree Protection Provisions, and 8-4L-4 Common Open Space provided that there is equal or greater landscaping provided and no reduction in tree canopy. All other changes to landscaping must be approved by the Design Review Consultant's or decision maker.
- 4. Common driveways, private streets, open space, and other common areas shall be included in an easement or on a common lot noted as unbuildable.
  - a. Lot 1 shall be considered a common lot.
  - b. The private street shall be constructed on a perpetual ingress/egress easement or a single platted lot that provides access to all applicable properties.
  - c. The private street name(s) shall obtain approval from the Ada County Street name committee.
- 5. 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
    - ii. Water and sewer
      - 1. If not otherwise designated by the City Engineer, the 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.
    - iii. Drainage
    - iv. Public 16-foot-wide multi-use pathway along Dry Creek Canal
- 6. A minimum 16-foot-wide public access easement shall be granted along the southern property boundary line for the future pedestrian pathway along Dry Creek Canal.
  - a. The easement shall be wide enough to allow for a minimum 12-foot-wide pedestrian pathway with at least 2-foot clearance zones on each side.
  - b. The easement shall be wide enough to allow for maintenance vehicles.
- 7. The property shall provide public art along the public access easement as an amenity.
  - a. If the public art cannot be placed along the easement, then the public art shall be placed along the frontage of W. State Street.

8. 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 SUBFY2024-0001".
  - a. The approved reductions from code required setback are:
    - i. Lots 2-96
      1. Rear Setback: 0'
      2. Side Yard Setbacks: 0'
      3. Front Setback: 0'
      4. Streetside: 0'
9. Setbacks for all lots shall be from the property lines.
10. A building envelope within which future building footprints will be located shall be shown on the lots.
11. A binding contract that establishes the party or parties responsible for the repair and maintenance of the common lots including regulations for the funding shall be recorded with a final plat.
12. A funding mechanism shall be identified so that the public art and sculptures shall be maintained in their original state from the date of approval.
  - a. If vandalism is to occur, restoration shall commence immediately to return the art to its original state.
13. The CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho".
14. A Floodplain development permit is required.
15. 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.
16. 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.
17. 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.

18. All stormwater systems must comply with Garden City Code 8-4A-7.
19. All outdoor service and equipment areas shall be screened and comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
20. All public water supply or sewer systems shall be constructed in accordance with adopted city plans and specifications. All new public water supply or sewer systems shall be extensions of an existing public system.
21. All water and sewer plans shall be submitted to the Garden City engineer for his/her review and approval of the plans and specifications.
22. 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.
23. Submit a sustainability checklist that demonstrates compliance with or an exemption from Garden City Code 8-4G for each anticipated lot and or structure prior to final plat signature.
24. The structural elevations shall be in conformance with DSRFY2021-0015 as reviewed and approved or otherwise conditioned.

**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, or any common drive, private street, or State Street.
  - a. All bicycle parking shall be located so as to not prevent the sidewalk traffic from maintaining a continuous momentum.
2. All streets and driveways shall adhere to the standards of a clear vision triangle.
3. 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.
- 4. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
- 5. A three-foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
- 6. All common open spaces shall be located on an open space easement with the grantee being Shindig Subdivision or be located within a common lot maintained by the HOA.
  - a. The common open spaces shall not be altered or eliminated by individual property owners.
  - b. The subdivision shall maintain all open spaces in accordance with Garden City Code 8-1C Property Maintenance Provisions as well as Garden City Code 8-4L Open Space Provisions.

**General:**

- 1. This approval is for a combined preliminary and final plat for a residential subdivision encompassing 96 lots – 95 lots are to be designated for residential use and 1 lot is to be designated as a common lot.
- 2. This approval is based on the following plans:
  - a. Landscape Plan Submitted on January 17, 2024, dated October 17, 2021;
  - b. Architectural Elevation Plans and Floor Plans submitted as part of DSRFY2021-0015;
  - c. Site Plan Submitted January 17, 2024, dated October 13, 2021;
  - d. Preliminary Plat submitted January 17, 2021, dated December 19, 2023;
  - e. Final Plat submitted January 17, 2024, dated December 19, 2023.
- 3. Approved waivers to Garden City Code, Title 8 regulations include:
  - a. Setbacks, allowing for lots interior of the development setbacks of 0'; and
  - b. More than 4 dwelling units being served through a common drive, allowing for 95 units to be served on a common drive;
  - c. Vehicular parking space dimensions, allowing for previously approved dimensions associated with DSRFY2021-0015;
  - d. Front yard tree; allowing for deficiencies in accordance with DSRFY2021-0015 approved landscape plans;
  - e. Parking requirements, allowing for a deficiency of 2 guest parking spaces in accordance with previously approved DSRFY2021-0015 plans and conditions;

4. **RECOMMENDATION:** As of the date of this writing, the Federal Emergency Management Agency has issued Digital Federal Insurance Rate Maps (DFIRM) which identifies Garden City in seclusion. The most current flood mapping model proposes to delineate the subject properties to be within the 100-year Floodplain once the seclusion is lifted. The applicant should consider that any new structures must have the top of the lowest floor 2' above BFE (as defined by adopted FIRM) pursuant to current Garden City Code. This approval is conditioned that structures at least to at or above the anticipated BFE. Stricter standards may be required in the future for building permit approvals if the floodplain is updated.
5. There is no guarantee that public parking will remain public.
6. The development shall be initiated within two (2) years of the date of approval.
7. The applicant shall comply with all requirements of the reviewing entities.
8. 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.
9. Approval of the subdivision does not constitute as the approval for any uses.
10. The approved addresses and a copy of the recorded plat must be provided to the city prior to the city considering the subdivision complete.
11. The approval is specific to the application provided and reviewed.
12. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained.
13. 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.
14. 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.

15. 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.
16. 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.
17. 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.
18. 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.
19. 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.
20. This approval shall expire two (2) years from its approval, unless otherwise extended as allowed by Garden City Code.
21. Approval shall become null and void if the applicant fails to record a final subdivision within two (2) years 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.
22. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
23. Action is the date the decision body formalizes their decision. The decision body may formalize their decision by approving a draft decision or a draft decision with noted changes at the hearing. The date of action may be a different date than the applicant is provided with a signed copy of the decision.



24. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
25. Pursuant to Idaho Code, a request for reconsideration must be submitted within 14 days of the action and prior to judicial review. The written request must identify specific deficiencies in the decision for which reconsideration is sought.
26. A takings analysis pursuant to Idaho Code may be requested on final decisions.
27. 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

March 20, 2024

Date

