

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:	)	SUBFY2022-0002
	)	
	)	
Preliminary Plat Subdivision	)	FINDINGS OF FACT
3900 N. Reed Street	)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho	)	AND DECISION
_____	)	

THIS MATTER came before the Garden City Council for consideration on October 10, 2022. The Garden City Council reviewed the application and materials submitted and considered public testimony. 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 application is for a Preliminary Plat processed as a Planned Unit Development subdivision.
2. The applicant is Jeff Hatch.
3. The property owner of record is HONDO REED LLC.
4. The location of the project is 3900 N. Reed Street; Taxing Parcel Number: R2734560340; Property is described as PAR #0340 OF LOTS 30 & 31 BLK 3 FAIRVIEW ACRES SUB 7 #8800624 VIN # 4H8DS8189 TITLE B264065.
5. The subject property is 0.35 acres.
6. The project is located in the Mixed-Use Residential designation of the Comprehensive Plan Future Land Use Map.
7. The project is in the R-3 Zoning District.
8. The project is located in the floodplain according to the 2003 FIRM.
9. The project is 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 8-2B: Base Zoning District Regulations
  - c. Garden City Code 8-4A: Design and Development Regulations – General Provisions
  - d. Garden City Code 8-4B: Design and Development Regulations – Design Provisions for Residential Structures
  - e. Garden City Code 8-4D: Parking and Off-Street Loading Provisions
  - f. Garden City Code 8-4E: Transportation and Connectivity Provisions
  - g. Garden City Code 8-4H: Flood Hazard
  - h. Garden City Code 8-4G: Sustainable Development Provisions
  - i. Garden City Code 8-4I: Landscaping and Tree Protection Provisions
  - j. Garden City Code 8-4L: Open Space Provisions
  - k. Garden City Code 8-6A: Administration – General Provisions
  - l. Garden City Code 8-6B-7 Planned Unit Development
  - m. Garden City Code 4-14: Storm Drainage and Erosion Control
  - n. Garden City Code Title 6: Public Water and Sewer Systems

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 PUD too
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*
<b>Other Materials Provided</b>			
			Floorplans PUD waiver requests

\*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	01/11/2022	12/06/2022
Letter of Acceptance	01/06/2022	01/13/2022 <sup>2</sup>
Radius Notice	02/07/2022	01/21/2022
Interested Parties	n/a	n/a
Legal Notice	02/03/2022	01/25/2022
Agency Notice	02/07/2022	01/21/2022; Addendum 01/24/2022
Property Posting Sign	02/12/2022	02/09/2022
Affidavit of Property Posting and Photos	02/15/2022	02/09/2022

14. Agency Comments were received from:

- a. City Engineer; dated February 8, 2022
- b. NACFR; dated December 27, 2022
- c. NACFR; dated April 20, 2022
- d. FAWULA; dated January 31, 2022
- e. Republic Services; dated January 24, 2022
- f. ACHD; dated February 16, 2022

15. Written Public Comments were received from:

- a. Coleen Stambaugh on December 6, 2021 and September 21, 2022

16. On February 16, 2022, a public hearing before the Planning and Zoning Commission was held and per the applicant's request, was moved to the date certain of March 16, 2022.

17. On March 16, 2022, a public hearing before the Planning and Zoning Commission was held and per the applicant's request, was moved to the date certain of April 20, 2022.

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

<sup>2</sup> Applicant and staff were in conversation regarding required submittal materials and potential hearing dates.

18. On April 20, 2022, a public hearing before the Planning and Zoning Commission was held and per the applicant's request, was moved to the date certain of May 18, 2022.
19. On May 18, 2022, a public hearing before the Planning and Zoning Commission was held and per the applicant's request, was moved to the date certain of June 15, 2022.
20. On June 15, 2022, a public hearing before the Planning and Zoning Commission was held and per the applicant's request, was moved to the date certain of July 18, 2022.
21. On July 18, 2022, a public hearing before the Planning and Zoning Commission was held and per the applicant's request, was moved to the date certain of August 17, 2022.
22. On August 17, 2022, a public hearing before the Planning and Zoning Commission was held and per the applicant's request, was moved to the date certain of September 21, 2022.
23. On September 21, 2022, a public hearing before the Planning and Zoning Commission was held. The Commission provided the following comments and requests:
  - a. Summary Chairman Rasmussen introduced the application.
  - b. The applicant, Jeff Hatch presented the application.
  - c. Staff Hanna Veal presented the staff report.
  - d. Questions included:
    - i. CC&Rs for common lots not a part of the packet.
    - ii. Tree mitigation has been conditioned. Certified arborist report required.
    - iii. Waivers requested and drafted.
    - iv. Housing variety not provided per PUD code standards.
    - v. Frontage discussion with the Design Review consisted of:
      1. Setbacks.
      2. Garage percentage of frontage.
    - vi. Common open space calculations needed for compliance.
    - vii. Recommendation changes to the decision document.
  - e. Public testimony was heard from:
    - i. Colleen Stambaugh; in opposition.
    - ii. Hannah Ball; in favor.
    - iii. Jason Jones; in favor
  - f. Jeff Hatch provided rebuttal:
    - i. The common area is 13.3%.
    - ii. Staggered entries.
    - iii. No existing sidewalk at Herron Park.
    - iv. Arborist report can be provided.

- v. Pedestrian connection activates Adams Street and Greenbelt.
  - vi. Parking can be vetted via the CC&Rs.
  - vii. Setbacks have been amended to align with code.
  - viii. The public will know that the access via an arbor, signage contrasting hardscape path through common drive, and public easement.
  - g. Public testimony was closed.
  - h. Discussion included:
    - i. Late submittals are included in the record.
    - ii. Unique and difficult lot to develop.
    - iii. CC&Rs need to include the HOA ownership of the common areas including the guest parking and guest dwelling unit.
    - iv. Condition item #8 shall state "A binding contract...maintenance of the common lots 'and guest parking' including regulations...".
    - v. Variety of housing intent is met with five different floor plans
  - i. Commissioner Montoya moved to approve the application as drafted in the draft decision in the affirmative with draft conditions of approval with the following modifications to the conditions of approval:
    - i. Condition item #5. a.i.1. shall be changed to allow for a 11' front setback.
    - ii. Condition item #8 shall state "A binding contract...maintenance of the common lots 'and guest parking' including regulations...".
    - iii. Delete waiver request in General condition item # 3.c.
    - iv. Amend General condition #2 to include most up to date resubmittal documents.
  - j. Committee Member Shepard seconded the motion.
    - i. The motion carried unanimously.
24. On February 22, 2022, a public hearing before the Garden City Design Review Committee was held. A summary of that meeting is as follows:
- a. Condition Jeff Hatch presented the application.
  - b. Staff, Hanna Veal, presented the staff report.
  - c. Public testimony was heard from:
    - i. Helen Carnie in favor; interacts well with Heron Park and the Greenbelt. It matches the way the neighborhood is developing. It is in accordance with the Comprehensive Plan. Should provide a pedestrian connection from Reed Street, Heron Park, and the Greenbelt as there are none currently.
  - d. Jeff Hatch provided rebuttal:
    - i. The requested setback waivers are for the entire development.
    - ii. The garage is for residence's guests.
    - iii. The living quarters above the garage is for the guests of all the lots within the subdivision.
    - iv. Common access easement for all properties to utilize the common drive, common open space, and potential Greenbelt access point through back-yards.

1. No reasoning behind having common areas on individual lots versus on common lots.
  - v. No interaction with the neighbor to the north.
  - vi. New subdivision would be required to meet fire safety standards.
  - vii. HOA would own the guest parking and residential dwelling structure. It would be for guests and residence to book and would be governed by the CC&Rs.
  - e. Public testimony was closed.
  - f. Discussion included:
    - i. It is recommended by staff to have all common areas on common lots.
    - ii. Pedestrian access and circulation are a major concern.
      1. Committee is opposed to the primary pedestrian entrance being from the garage.
    - iii. The units shall be compliant with Garden City Code standards 8-4B.
    - iv. The development's lack of focus on the street is not permitted. The units shall have more focus on Reed Street. Balance the street frontage components with the river frontage components.
    - v. Waiver request for the setbacks is permitted.
    - vi. Does more units and higher density as a product make it easier to achieve code compliance?
      1. Encourage to re-design the site to better meet the Garden City Code standards as set forth in Title 8 Development Code.
  - g. Committee member Labrie moved to continue to a date certain of March 21<sup>st</sup>, 2022.
  - h. Committee member Hurd seconded the motion.
  - i. The motion carried unanimously.
25. On March 21, 2022, the Garden City Design Review Committee moved the application to the date certain of April 18, 2022, per the applicant's request.
  26. On April 18, 2022, the Garden City Design Review Committee moved the application to the date certain of May 2, 2022, per the applicant's request.
  27. On May 2, 2022, the Garden City Design Review Committee moved the application to the date certain of June 6, 2022, per the applicant's request.
  28. On June 6, 2022, the Garden City Design Review Committee moved the application to the date certain of June 20, 2022, per the applicant's request.
  29. On June 20, 2022, a public hearing was held with the Garden City Design Committee, discussion included:
    - a. Jeff Hatch presented the application.

- a. New application renderings and site plans were shown to the Committee.
  - b. Staff Hanna Veal presented the staff report.
    - a. Staff reviewed the March 2, 2022, resubmittals. The March 2<sup>nd</sup> documents were the last submitted documents. The new site plans and renderings shown at the hearing were not included in the packet nor reviewed by staff.
  - c. There was no public testimony.
  - d. Jeff Hatch provided rebuttal:
    - a. Can waiver be permitted to allow for deviation from the public realm interaction?
  - e. Public testimony was closed.
  - f. Discussion included:
    - a. The development does not engage with the public realm.
      - i. Only providing a public plaza does not meet the relationship dynamic requirements between the development and the public realm.
      - ii. The public amenities only account for a small portion of the overall frontage that which is primarily dominated by the common drive.
      - iii. The pedestrian pathway through the development appears like an alleyway.
        - 1. Needs to be more intentional in nature. Become more of a focal point.
        - 2. Pedestrian pathway shall be a public amenity for the public to use.
        - 3. If waiver to frontage standards were to be granted, the pedestrian connection would need to be drastically enhanced.
          - a. Perhaps the common drive is separated into two with the pathway and plaza opens onto the Greenbelt
    - b. Moving the front doors to the forefront of the building façade better meets code requirements. Previous plans showing carports with front doors hidden behind parked vehicles does not meet code requirements.
  - g. Committee Member Labrie moved to continue to a date certain of July 18, 2022.
  - h. Committee Member Hurd seconded the motion.
  - i. The motion carried unanimously.
30. On July 18, 2022, the Garden City Design Review Committee moved the application to the date certain of August 16, 2022.

31. On August 16, 2022, the Garden City Design Committee moved the application to the date certain of September 6, 2022.
32. On September 6, 2022, the Garden City Design Committee canceled the hearing and moved the application to the date certain of September 8, 2022.
33. A special meeting was held on September 8, 2022, discussion included:
  - a. Jeff Hatch presented the application.
  - b. Staff Hanna Veal presented the staff report.
  - c. There was no public testimony.
  - d. Jeff Hatch provided rebuttal:
    - i. HOA would maintain the common drive and the guest unit.
    - ii. Everyone would have access to the guest parking garage but would require HOA reservation process.
    - iii. Planned unit development (PUD) gives ability to ask for waivers.
    - iv. Private easement across the rear yards to allow for access to the public connection to the Greenbelt.
    - v. Formal agreement for public Greenbelt easement has not been reached.
    - vi. The application is meeting the intent of the planned unit development by providing a diverse type of units, creating usable open space by providing connection to the Greenbelt.
  - e. Public testimony was closed.
  - f. Discussion included:
    - i. Car-focused subdivision with almost more pavement than living space. Committee's request for a re-design has not been.
    - ii. Pedestrian alleyway is not adequate. Does not meet the intent of a "Gateway" to the Greenbelt. Does not feel public. Feels like alleyway.
    - iii. Street presence of the dwelling units is non-existent.
    - iv. Greenbelt access easement is needed.
    - v. Public access easement is needed.
    - vi. Road easement with guest parking easement needed.
    - vii. The application does not meet code in many different sections.
    - viii. Denial recommendation is based on non-code compliance as identified in the highlighted portions of the staff analysis.
      1. Drafted decision document to be revised to include that missing information; or lack of information is cause for denial.
  - g. Committee Member Labrie moved to continue to a date certain of September 19, 2022.
  - h. Committee Member Hurd seconded the motion.
  - i. The motion carried unanimously.
  - j. The hearing was kept open.



34. On September 19, 2022, the Garden City Design Committee held a meeting. The Garden City Design Committee recommended Denial of the application subject to the following conditions:
- a. Jeff Hatch presented the application.
  - b. Staff Hanna Veal presented the staff report.
  - c. Public testimony was heard from:
    - i. Hannah Ball in favor; conflicting fire access code and Design Review Street frontage presence code.
  - d. There was no rebuttal by the applicant.
  - e. Public testimony was closed.
  - f. Discussion included:
    - i. Pedestrian connection to the Greenbelt to and from Reed Street is needed; the easement development has not commenced.
    - ii. Direct connection to the residences from Reed Street is not safe. Conflicts with common drive vehicular uses.
    - iii. Frontages of residences do not address the street or public realm.
  - g. Committee Member Labrie moved to deny the application as drafted in the draft decision in the denial.
  - h. Committee Member Hurd seconded the motion.
  - i. The motion carried unanimously.
35. The record contains:
- a. Application
  - b. Noticing Documents
  - c. Agency Comments
  - d. Public Comments
  - e. Design Review Committee Minutes and Hearing Audio: February 22, 2022
  - f. Design Review Committee Minutes and Hearing Audio: March 21, 2022
  - g. Design Review Committee Minutes and Hearing Audio: April 18, 2022
  - h. Design Review Committee Minutes and Hearing Audio: May 2, 2022
  - i. Design Review Committee Minutes and Hearing Audio: June 6, 2022
  - j. Design Review Committee Minutes and Hearing Audio: June 20, 2022
  - k. Design Review Committee Minutes and Hearing Audio: July 18, 2022
  - l. Design Review Committee Minutes and Hearing Audio: August 16, 2022
  - m. Design Review Committee Minutes and Hearing Audio: September 6, 2022
  - n. Design Review Committee Minutes and Hearing Audio: September 8, 2022
  - o. Design Review Committee Minutes and Hearing Audio: September 19, 2022
  - p. Planning and Zoning Minutes and Hearing Audio: February 16, 2022
  - q. Planning and Zoning Minutes and Hearing Audio: March 16, 2022
  - r. Planning and Zoning Minutes and Hearing Audio: April 20, 2022
  - s. Planning and Zoning Minutes and Hearing Audio: May 18, 2022
  - t. Planning and Zoning Minutes and Hearing Audio: June 15, 2022
  - u. Planning and Zoning Minutes and Hearing Audio: July 20, 2022
  - v. Planning and Zoning Minutes and Hearing Audio: August 17, 2022
  - w. Planning and Zoning Minutes and Hearing Audio: September 21, 2022

- x. Planning and Zoning Commission Recommendation
- y. Design Review Committee Recommendation
- z. City Council Decision

36. In consideration of a preliminary plat the decision maker shall make the following findings:

The draft findings are written based on the DENIAL recommendation from the Design Review Committee. The City Council will review all evidence, and the draft findings may be updated based on their review and consideration.			
GCC 8-5B-5: SUBDIVISION PROCESS: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Compliant	Not Applicable to this Application	Standard
	X		<p><b>Finding 1.</b> The subdivision is in conformance with the Comprehensive Plan;</p> <p><b>Explanation:</b></p> <p><b>In Denial:</b> The public path to the greenbelt is not designed to be obvious that it is intended to be for the public. Moreover, there is no assurances from the adjacent property that a connection to the greenbelt could be made at this location.</p> <p>The site design is not quality in that it is set back, and around a driveway and fails to address the public realm.</p> <p>Specific goals and objectives that are not met include:</p> <p>Goal 7. Connect the City a.) 7.1. Objective: Create pedestrian and bicycle friendly connections.</p>
	X		<p><b>Finding 2.</b> The subdivision is in conformance with all applicable provisions of this title;</p> <p><b>Explanation:</b></p> <p><b>In Denial:</b> The application is either not in conformance with the applicable sections of Garden City Code or there was not enough information to review the</p>

			<p>application thoroughly. The application was found to not be in conformance with the applicable sections of Code 8-2B-3, 8-4B-3, 8-4D-5, 8-4I-7, 8-4L-4, 8-4L-3, and 8-6B-7.</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> There are public services available that can accommodate the proposed development.</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> 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> The application has provided an ability to serve letter. The City Engineer has stated that the city is capable of providing water and sewer.</p>
	X		<p><b>Finding 6.</b> The development will not be detrimental to the public health, safety, or general welfare;</p> <p><b>Explanation:</b> <b>In Denial:</b> The lack of adherence to City Codes and the City's Comprehensive Plan is detrimental to the welfare of the city and its community members.</p> <p>The proposal is not in compliance with code sections identified in 8-5B-5 Finding 2 which is detrimental because:</p> <p>The lack of separated pedestrian access to and from the dwelling units to the public</p>

		<p>sidewalk through the common drive could lead to vehicular and pedestrian conflicts.</p> <p>The units do not adhere to the required setbacks or structural design standards.</p> <p>The development reduces access to the Greenbelt in that the access through the site is not adequately designed to demonstrate that the access is intended for the public.</p> <p>As the site design is auto centric it does not contribute to safety and comfort of those walking adjacent to the site. This in turn diminishes the public's use of active transportation around the neighborhood, to the adjacent park, and adjacent greenbelt.</p> <p>The site plan does not engage or acknowledge the public realms of Reed Street incumbering the public's use of the public facilities.</p> <p>The site does not provide the connectivity as envisioned by the adopted Original Town Site Circulation Network Plan.</p> <p>Waivers from code are requested while not clearly demonstrating how the purpose of the Planned Unit Development is met.</p> <p>The proposal does not maintain the existing healthy trees.</p>
	X	<p><b>Finding 7.</b> The development preserves significant natural, scenic, or historic resources.</p> <p><b>Explanation:</b>  <b>In Denial:</b> The development does not adequately address the adjacent Greenbelt or the Boise River, nor does it provide complementary trees and vegetation for its location adjacent to the river. The application proposes to remove all existing trees, including the healthy</p>

			calipers, despite the site layout and construction of the units allowing them to remain.
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37. In consideration of a planned unit development, the decision maker shall make the following findings:

<p><b>The draft findings are written based on the DENIAL recommendation from the Design Review Committee. The City Council will review all evidence, and the draft findings may be updated based on their review and consideration.</b></p>			
<p><b>GCC 8-6B-7: PLANNED UNIT DEVELOPMENT: REQUIRED FINDINGS</b></p>			
<p>Conclusion</p>			
<p>Compliant</p>	<p>Not Applicable to this Application</p>	<p>Not Compliant</p>	<p>Standard</p>
		<p>X</p>	<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> <b>In Denial:</b> The application has not provided documentation that the development will be initiated within two years of the date of approval.</p>
		<p>X</p>	<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> <b>In Denial:</b> The proposal fails to be compliant with provisions of code without demonstrating that a deviation to standards achieve the purpose of a planned unit development, 8-6B-7A.</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>  <b>In Denial:</b>  The location of this project is an area where active transportation is highly utilized and becoming more popular. The site design does not provide adequate connectivity, nor does it enhance the existing networks being utilized.</p>
	X		<p><b>Finding 4.</b> Any proposed commercial development can be justified at the locations proposed.</p> <p><b>Not applicable:</b> This development does not propose any commercial aspects.</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 accordance with the PUD and the adopted policy of the council</p> <p><b>Explanation:</b>  <b>In Denial:</b>  The exception from standard district requirements is not warranted as there is inadequate demonstration that 8-6B-7A is achieved. Subsequently, the proposal has not achieved the ability to deviate from code standards. More specifically the application does not:</p> <p>Provide a maximum choice of living environments, create a more useful pattern of open space and recreational areas, establish a development pattern which preserves and utilizes geologic features, scenic vistas, trees, and vegetation, utilize the land more efficiently than what is achieved through conventional development, or provide a</p>

			land pattern in harmony with transportation and community facilities.  Rather, the proposal results in a project that detracts from the required open spaces and recreational areas of The Greenbelt and the Boise River.
		X	<b>Finding 6.</b> The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development; <b>Explanation:</b> <b>In Denial:</b> The proposed development is not compatible with the surrounding uses nor is it in alignment with the Comprehensive Plan's neighborhood vision.
		X	<b>Finding 7.</b> The PUD is in general conformance with the comprehensive plan; <b>Explanation:</b> <b>In Denial:</b> See 8-5B-5 Finding 1.
X			<b>Finding 8.</b> The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed; <b>Explanation:</b> The ability to serve has been provided.
<b>GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS</b>			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
		X	<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><b>Explanation:</b>  <b>In Denial:</b>  The application is not appropriate to the location or the neighborhood. The application cuts adjacent properties off and ignores its special location adjacent to the Boise River and the Greenbelt.</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>  <b>In Approval:</b> The ability to serve has been provided. The city engineer has stated that the referenced project is eligible to receive water and sewer services from the city of Garden City from existing infrastructure.</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>  <b>In Denial:</b> The lack of adherence to City Codes and the City’s Comprehensive Plan is detrimental to the welfare of the city.</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>  <b>In Denial:</b>  Refer to 8-5B-5 Finding 1 and Finding 2.</p>

38. The record was reviewed in its entirety by the Garden 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 **does not satisfy** the required findings under GCC 8-5B-5, 8-6B-2, and 8-6B-7.



## DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, the Garden City Council hereby does **SUSTAIN/REMAND** the Design Review Committee recommendations as modified and does **DENY** Honcik Townhomes, application SUBFY2022-0002 for a preliminary Plat Subdivision processed as a Planned Unit Development and subject to the following conditions:

### 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) for reasons stated in the findings. Compliance can be met by meeting all governing code standards or identify how any requested waivers to code clearly implement the purpose of GCC 8-6B-7 Planned Unit Development.
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.

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Mayor, John G. Evans

October 10, 2022  
Date