

BEFORE THE GARDEN CITY 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:	)	SUBFY2022-0004
	)	
	)	
Combined Preliminary and Final Plat	)	
Subdivision	)	
Planned Unit Development	)	
Elle Estates	)	FINDINGS OF FACT
4800 N. Adams Street	)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho	)	ANDRECOMMENDATION
_____	)	

THIS MATTER came before the Garden City Planning and Zoning Commission for consideration on June 18, 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 Scott Davis.
3. The property owner of record is Paul Martinet.
4. The location of the project is 4800 N. Adams Street; Taxing Parcel Number: R2734523137; Property is described as PAR #3137 OF LOTS 1 & 2 BLK 23 FAIRVIEW ACRES SUB NO 03 #3131-C #3133-C VIN#162994D3917 TITLE#B012577.
  - a. 406 E. 48<sup>th</sup> Street (2024)<sup>1</sup>
5. The subject property is 0.632 acres.
6. The project is located in the Main Street Corridor and Mixed-Use Residential designations of the Comprehensive Plan Future Land Use Map.
7. The project is in the R-3 Medium Density Residential Zoning District.

<sup>1</sup> Changed address between 2022 and 2024. All other information remained the same.  
SUBFY2022-0004 FINDINGS OF FACT, CONCLUSIONS OF LAW AND PZ RECOMMENDATION -  
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8. The project is located in the floodplain according to the 2003 FIRM.
9. The project is not 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 8-1: General 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 8-5: Land Division Regulations
  - 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 PUD too
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 <sup>2</sup>	Completion Date
Receipt of application	04/21/2022	3/29/2022
Letter of Acceptance	04/29/2022	3/30/2022
Radius Notice	05/01/2022	4/13/2022
Legal Notice	04/27/2022	4/8/2022
Agency Notice	05/01/2022	4/8/2022
Property Posting Sign	10/07/2022 <sup>3</sup>	10/07/2022
Affidavit of Property Posting and Photos	10/11/2022	10/07/2022

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

Noticing Requirement	Required Date	Completion Date
Receipt of application		09/22/2023
Letter of Acceptance	10/22/2023	10/18/2023
Radius Notice	02/06/2024	10/20/2023
Legal Notice	02/02/2024	10/23/2023
Agency Notice	02/06/2024	10/06/2023
Property Posting Sign	03/10/2024	03/06/2024
Affidavit of Property Posting and Photos	03/13/2024	03/11/2024

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

Noticing Requirement	Required Date	Completion Date
Receipt of application		05/15/2024
Letter of Acceptance	06/15/2024	05/31/2024
Radius Notice	06/03/2024	06/04/2024
Legal Notice	06/03/2024	05/31/2024

<sup>2</sup> This date is based on the date of the first of any public hearing scheduled.

<sup>3</sup> Property postings were not placed on site until October of 2022. Staff has included the deadline dates of the required property posting sign for the October Hearing date.

Agency Notice	06/03/2024	05/31/2024
Property Posting Sign	06/11/2024	06/05/2024
Affidavit of Property Posting and Photos	06/08/2024	06/10/2024

16. Agency Comments were received from:
  - a. Ada County Highway District
  - b. Boise School District
  - c. Department of Environmental Quality
  - d. Garden City Engineer
  - e. North Ada County Fire and Rescue
  - f. Idaho Transportation Department
  - g. Republic Services
17. Written public comments received from:
  - a. Justin Cranney, dated October 13, 2022
  - b. Justin Fredin, dated December 15, 2023, and May 9, 2024
18. On May 18, 2022, the Planning and Zoning Commission moved the application to the date certain of July 20, 2022, per the applicant's request.
19. On July 20, 2022, the Planning and Zoning Commission moved the application to the date certain of September 19, 2022, due to lack of timely resubmittal.
20. On September 21, 2022, the Planning and Zoning Commission moved the application to the date certain of October 19, 2022, due to noticing errors.
21. On October 19, 2022, a hearing was held with the Planning and Zoning Commission. A summary of the discussion is included below:
  - a. Staff Hanna Veal presented the staff report.
  - b. It was noted that the Design Review Committee requested changes. The changes were summarized. Staff asked if the Commission would like to proceed with the hearing or to continue the hearing to review the application after the changes have been submitted.
  - c. The Commission opted to hold the hearing and continue it to a date certain of November 16, 2022.
  - d. Staff continued with the staff report.
  - e. Aria Orr and the applicant team were not able to connect to Zoom.
  - f. Commissioner Wilde moved to suspend the hearing and continue it to a date certain of November 16, 2022.
  - g. Committee Member Montoya seconded the motion.
  - h. The motion carried unanimously.
22. On November 16, 2022, the Garden City Planning and Zoning Commission moved the application to the date certain of December 21, 2022.

23. On January 17, 2024, the Planning and Zoning Commission moved the application to the date certain of February 21, 2024, due to lack of timely resubmittal.
24. On February 21, 2024, the Planning and Zoning Commission moved the application to the date certain of March 20, 2024, due to noticing errors.
25. On March 20, 2024, a hearing was held with the Planning and Zoning Commission. A summary of the discussion is included below:
  - a. Maria Neu presented the application.
    - i. Proposal to discharge a portion of the storm water into 48<sup>th</sup> St.
    - ii. Questions and concerns regarding drainage and lack of city engineer review due to no signed or stamped civil plans.
  - b. Staff, Hanna Veal presented the staff report.
    - i. Late submittal received at 5:30. Printed for the Commission and public in attendance.
    - ii. Common open space discrepancies between plans, drainage, and landscape plan conflict.
    - iii. A variety of houses include two- or three-bedroom units, with tandem or side-by-side garages, all three-story townhomes with rooftop patio.
    - iv. Drafted condition of approval stating no encroachment upon access easement.
  - c. Public testimony was heard from:
    - i. Landon Brown for Bliss Properties, LLC; provided requested additional conditions for approval, drainage concerns.
    - ii. Dustin Block; opposed to 0' setbacks and parking, drainage and density concerns.
  - d. Maria Neu and Scott Davis provided rebuttal:
    - i. Common open space, request waiver for common open space dimensional standards to allow for parking and drainage conflict.
    - ii. Setback waiver is for lots internal to the development. Not the whole subdivision.
    - iii. Easement description per Garden City Code.
    - iv. No additional drainage study other than from Blue Peak in 2022.
  - e. Public testimony was closed.
  - f. Public testimony was re-opened.
    - i. Dustin Block; new resubmittal from today shows lack of code compliant parking.
  - g. Staff, Hanna Veal, clarified parking waiver required if parking lot adjacent to 48<sup>th</sup> Street is removed/replaced with common open space landscaping per the new resubmittal. Previous resubmittals also had discrepancies.
  - h. The public hearing was closed.
  - i. Discussion included:
    - i. Concerns regarding open space, drainage, landscaping, and parking.

- ii. The proposal appears to be too dense to meet the code requirements. Lack of available space to provide open space, landscaping, parking, and adequate drainage based on how many units are proposed.
- iii. Commissioner Sheppard stated the variety of housing provided meets PUD code, while Commissioner Brown stated it did not meet the variety of housing needs of the PUD.
- iv. The open space provided does not meet dimensional needs. If picking between open space waiver versus parking waiver, would waive parking to allow for more open space.
- v. All conditions per Landon Brown's testimony should be added to the conditions of approval.
- vi. Commissioner Brown recommended denial based on drainage.
- j. Commissioner Sheppard moved to continue to a date undetermined.
- k. Commissioner Smith seconded the motion.
- l. The motion carried unanimously.

26. The record contains:

- a. Application
- b. Noticing Documents
- c. Agency Comments
- d. Public Comments
- e. Planning and Zoning Commission Minutes and Hearing Audio: May 18, 2022
- f. Planning and Zoning Commission Minutes and Hearing Audio: July 20, 2022
- g. Planning and Zoning Commission Minutes and Hearing Audio: September 21, 2022
- h. Planning and Zoning Commission Minutes and Hearing Audio: October 19, 2022
- i. Planning and Zoning Commission Minutes and Hearing Audio: November 16, 2022
- j. Planning and Zoning Commission Minutes and Hearing Audio: January 17, 2024
- k. Planning and Zoning Commission Minutes and Hearing Audio: February 21, 2024
- l. Planning and Zoning Commission Minutes and Hearing Audio: March 20, 2024
- m. Planning and Zoning Commission Minutes and Hearing Audio: June 18, 2024
- n. Planning and Zoning Commission Recommendation

27. 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			Standard
Compliant	Not Applicable to this Application	Not Compliant	
<b>X</b>		<b>X</b>	<p><b>Finding 1.</b> The subdivision is in conformance with the Comprehensive Plan;</p> <p><b>Explanation:</b>  <b>In Approval:</b> The application is cohesive with the Comprehensive Plan’s Main Street Corridor land use designation as it proposes minimal front yard setbacks, and parking behind the proposed buildings via a common drive. Pedestrian features include common open space landscaped areas adjacent to N. Adams Street with bicycle parking. The common drive ingress/egress is located off 48th Street as opposed to Adams, allowing for vehicular and pedestrian traffic to maintain without potential conflict.</p> <p>The development is cohesive with the Comprehensive Plan’s Mixed-Use Commercial future land use designation in that it proposes three-story residential dwelling units more urban in character.</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, and Goal 7 Connect the City.</p> <p><b>In Denial:</b> The application is not cohesive with the Comprehensive Plan’s Mixed-Use Commercial future land use designation. The proposal does not achieve the</p>

			<p>necessary uses or design standards to generate an urban character.</p> <p>Specific goals and objectives that are not met include:</p> <p>Goal 2. Improve the City Image</p> <p>a. Amend the Land Use Code to expand planned unit development (PUD) requirements to all sizes of parcels through a design review process. Amend the PUD standards to encourage a variety of housing, including well-designed smaller units; flexibility in setbacks and parking requirements to meet the needs of specific dwellings; and requirements for pedestrian amenities, including parks, open spaces and pathways.</p> <p>Goal 6. Diversity in Housing</p> <p>a. 6.3.1 Objective: Provide for a variety of housing types in the Land Use Code including smaller cottage and second housing units. Allow for housing that attract niche markets such as senior housing, live-work structures, and cooperative housing.</p> <p>b. 6.3.2. Objective: Continue to explore opportunities that encourage mixed income housing in new developments.</p> <p>By not abiding to the Planned Unit Development code requirements for a variety of housing, the application is in conflict with Goal 6 of the Comprehensive Plan. Goal 6 speaks to diversity in housing, objective 6.3 speaks to managing and creating a diverse housing market that which attracts niche markets to which this development does not do.</p>
X		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 approval:</b> As conditioned, and with approved waivers to code via the Planned Unit Development process, the application is in conformance with the applicable sections of Garden City Code.</p> <p><b>In Denial:</b> The application is either not in conformance with the applicable sections of Garden City Code or there wasn't enough information to review the application thoroughly. The application was found to not be in conformance with the applicable sections of code 8-2B-3, 8-4B-3, 8-4I-7 and 8-5A-6.</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>  <b>In Approval:</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>  <b>In Approval:</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 the request for the ability to serve letter.</p>
X		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 Approval:</b></p>

			<p>This proposal will not unreasonably diminish the health, safety, or welfare of the community. The maintenance of the existing pedestrian sidewalks along Adams and 48th Street and the closure of four curb-cuts provides for better pedestrian and bicycle connections than what currently exists.</p> <p>The on-site landscaped common open space and the open are rooftop patios will help contribute to the welfare of the residence and the surrounding community.</p> <p><b>In Denial:</b> The proposal will be detrimental to and unreasonably diminish the health, and safety of the community. 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>Waivers from code are requested while not clearly demonstrating how the purpose of the Planned Unit Development is met.</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 units do not adhere to the required setbacks or structural design standards.</p>
X		X	<p><b>Finding 7.</b> The development preserves significant natural, scenic, or historic resources.</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> 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>

			<b>In Denial:</b> The development does not adequately address the adjacent uses or N. Adams Street. The application proposes to remove all existing trees, including the healthy calipers
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28. In consideration of a planned unit development, the decision maker shall make the following findings:

<b>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.</b>			
<b>GCC 8-6B-7: PLANNED UNIT DEVELOPMENT: REQUIRED FINDINGS</b>			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X		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>  <b>In Approval:</b> Approval of this application is conditioned so that the development shall be initiated within two years of the date of approval.  <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>
X		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</p>

			<p>achieved under standard district regulations;</p> <p><b>Explanation:</b>  <b>In Approval:</b> 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><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		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 Approval:</b> The proposed development has a common drive capable of handling anticipated subdivision traffic. ACHD has approved of the proposed curb cut on 48th Street with conditions. And the PUD is not large enough to trigger a traffic impact analysis.</p> <p><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		X	<p><b>Finding 5.</b> Any exception from standard district requirements is warranted by the design and other amenities incorporated in</p>

			<p>the final development plan, in accordance with the PUD and the adopted policy of the council</p> <p><b>Explanation:</b>  <b>In Approval:</b> 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.</p> <p>The application provides a choice of living environments through providing a variety of floorplans and intended price points that will address different needs of different individuals and families. The buildings provide architectural variation.</p> <p><b>In Denial:</b>  The exception from standard district requirements is not warranted as they there is inadequate demonstration that 8-6B-7 A 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 utilizes the land more efficiently than what is achieved through conventional development, or provide a land pattern in harmony with transportation and community facilities.</p> <p>Rather, the proposal results in a project that detracts from the required open spaces and nearby recreational areas of The Greenbelt and the Boise River.</p>
X		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>  <b>In Approval:</b>  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><b>In Denial:</b>  The proposed development is not compatible with the surrounding uses nor is it in alignment with the Comprehensive Plan's vision for the Mixed-Use Commercial neighborhood.</p>
X		X	<p><b>Finding 7.</b> The PUD is in general conformance with the comprehensive plan;</p> <p><b>Explanation:</b>  <b>In Approval:</b>  With the unique design of the townhouse dwellings and a gradual increase in density, this development may be considered compatible with the existing residential uses in the neighborhood.</p> <p><b>In Denial:</b>  The application cannot be found in conformance with the comprehensive plan. See 8-5B-5 Finding 1.</p>
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>  <b>In Approval:</b> 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>
<b>GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS</b>			

Conclusion			Standard
Compliant	Not Applicable to this Application	Not Compliant	
X		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>  <b>In Approval:</b> The townhome development is compatible with the surrounding uses and is permitted within the R-3 zoning district. Any deviations to code standards have been conditioned for compliance or waived as part of the Planned Unit Development.</p> <p><b>In Denial:</b>  The application is not appropriate to the location or the neighborhood as the proposal is more intensive than what is envisioned by the R-3 zoning district. Furthermore, the application cuts adjacent properties off, and ignores its special location that is adjacent to the Boise River and 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> 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>
X		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 Approval:</b>  There is no evidence that the proposal is detrimental to the public health, safety, or general welfare of the community.</p>

			<p><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		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 Approval:</b> The reviewed sections are in conformance with this finding. The comprehensive plan objectives reviewed, and land use designation support this application.</p> <p><b>In Denial:</b> Refer to 8-5B-5 Finding 1 and Finding 2.</p>

29. 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/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 Recommendation, the Garden City Planning and Zoning Commission hereby recommends **APPROVAL/DENIAL** of application SUBFY2022-0004 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 final plat shall be in conformance with this approval as reviewed and approved or otherwise conditioned through this approval.
2. Common driveways, open space, and other common areas shall be included in an easement or on a common lot noted as unbuildable.
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
    - 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. Access Easement per Instrument No. 8905457 and 8905458
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 SUBFY2022-0004".
- a. The approved reductions from code required setback are:
    - i. Lots 1-13
      1. Rear Setback: 5'
      2. Side Yard Setbacks: 0'
5. Common Lots
- a. All common open spaces shall be located on common lots and noted as unbuildable on the plat.
  - b. Lot 14 Block 1 shall be considered a common lot.
  - c. All common open space shall be the responsibility of the owner or an owners' association for the purpose of maintaining the common area and improvements.
6. A building envelope within which future building footprints will be located shall be shown on the lots.
7. 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. No building permit shall be issued until the contract has been recorded.
8. The CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho".

**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. 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.
    - i. The frontage of E. 48th Street shall have a total of 5 class II or III street trees.
    - ii. The frontage of N. Adams Street shall have a total of 4 Class II or III street trees.
  - d. Approval of all trees shall be determined by Development Services Staff.
  - e. 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.
  - f. 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.
  - g. 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.
  - h. 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.
  - i. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
  - j. 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 Committee or decision maker.
3. 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.

4. All light fixtures must be compliant with Garden City Code 8-4A-4 Outdoor Lighting.
5. All outdoor service and equipment areas shall be screened and comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
  - a. HVAC equipment, trash dumpsters, recycling, trash compaction, and other service functions shall be incorporated into the overall design of buildings and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets.
  - b. Idaho Power transformers shall comply with this section of code.
6. 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.
7. Contrasting hardscape material shall be installed at the drive aisles to better identify the pedestrian crossings along E. 48<sup>th</sup> Street.
8. Vehicular parking
  - a. Parking spaces shall be a minimum of 9'X20'
  - b. The guest parking shall be in conformance with this approval as reviewed and approved or otherwise conditioned.
9. All stormwater systems must comply with Garden City Code 8-4A-7.
10. 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.
11. A sustainability checklist shall be submitted and found in compliance with Garden City Code 8-4G provisions.
12. All new fences shall be required to be in conformance with Garden City Code 8-4A-3:
  - a. A building permit for the retaining wall fence shall be applied for and approved if over 6' tall as shown in the plans. The design review consultants approved the height of the wall atop the retaining wall on the western side of the property.
  - b. Fences along a street frontage within the front yard setback shall have a maximum height of 3.5'. Fences greater than three and one-half feet (3.5') shall be set back to be flush or behind the building frontage.

- c. Fences and walls located within rear and interior side setbacks not adjacent to public rights-of-way shall have a maximum height of 6'.

**Prior to approval of building permits for structures:**

1. The structural elevations shall be in conformance with this approval as reviewed and approved or otherwise conditioned.
2. The floorplans shall be in conformance with this approval as reviewed and approved or otherwise conditioned.
3. 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.
4. The subdivision must obtain Ada County Approved addresses for all new lots.
5. All HVAC systems and outdoor service and equipment areas shall be identified in building plans for permit review and screened to be compliant with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
6. All units adjacent to public streets shall have a primary entrance on the street.
  - a. The end units on Lots 1 and 15 shall face Adams Street.
  - b. All primary entrances shall have a front entry porch, dormer, stoop, decorative posts or roof.
7. Setbacks for all lots shall be from the property lines.

**For the Duration of the Use:**

1. There shall be no landscaping work done beyond the parameters of the ownership of Elle Estates without expressed permission of the ownership of the property owner, including on public property.
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 Elle Estates Subdivision or be located within a common lot.
    - 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.
  7. No encroachments or parking shall be permitted within the access easement associated with the adjacent property located at 4810 N. Adams Street.
  8. A continuous solid panel fence, a minimum of six feet (6') in height, with no gates, shall be maintained adjacent to the entire length of the access easement associated with the adjacent property located at 4810 N. Adams Street, subject to applicable height restrictions along the Adams Street frontage.
  9. Drainage shall be prevented from entering onto the access easement associated with the adjacent property located at 4810 N. Adams Street.
  10. Any underground utility, water, or sewer lines located on the property and benefiting 4810 N. Adams Street shall be relocated to an area allowing for perpetual access and maintenance of the lines.

**General:**

1. This approval is for a combined preliminary and final plat for a residential subdivision encompassing 14 lots – 13 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 May 15, 2024, dated May 13, 2024;
  - b. Architectural Elevation Plans and Floor Plans submitted on May 15, 2024 dated May 14, 2024;
  - c. Site Plan Submitted May 15, 2024, dated May 14, 2024;
  - d. Final Plat Submitted May 15, 2024, dated May 14, 2024.

3. Approved waivers to Garden City Code, Title 8 regulations include:
  - a. Setbacks, allowing for 0' side setbacks and 5' rear setbacks;
  - b. More than 4 dwelling units being served through a common drive, allowing for 14 units to be served on a common drive;
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.

**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) for reasons stated in the findings. Compliance can be met by meeting all governing code standards or identifying 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.