

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:	)	SUBFY2023-0001
	)	
	)	
Combined Preliminary & Final Plat Subdivision	)	
Mod Court Townhomes	)	FINDINGS OF FACT
207 E. 45 <sup>th</sup> Street	)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho	)	AND DECISION
_____	)	

THIS MATTER, came before the Garden City Council for consideration on July 10, 2023. 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 Combined Preliminary and Final Plat processed as a Planned Unit Development subdivision.
2. The applicant is Andrew Wheeler.
3. The property owner of record is BASILEIA HOLDINGS LLC.
4. The location of the project is:
  - a. 207 E. 45<sup>th</sup> Street; Taxing Parcel Number: R2734500592; Property is described as Lot 25 Block 2 Fairview Acres Subdivision No. 01 #0591-B
  - b. E. 35<sup>th</sup> Street; Taxing Parcel Number: R2734500593; Property is described as Lot 24 Block 2 Fairview Acres Subdivision No. 01 #0591-S
5. The subject properties are 0.689 acres and 0.689 acres.
6. The project is located in the Mixed Use Commercial designation of the Comprehensive Plan Future Land Use Map.
7. The project is in the R-3 Zoning District.
8. The project is not located in the floodplain according to the 2003 FIRM.

9. The project is located in the floodplain according to FEMAs most recent modeling of the Lower Boise River, 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:

<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
X			Master Plan
X			Site Plan
X			Landscape Plan
X			Schematic Drawings
	X		Lighting Plan
X			Topographic Survey
X			Grading Plan
X			Soils Report
X			Hydrology
X			Engineering drawing and Specifications

X			Natural Hazards and Resource Analysis
X			Dedications and Easements
X			Covenants and Deed Restrictions
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		03/22/2023
Letter of Acceptance	04/22/2023	03/29/2023
Radius Notice	04/16/2023	04/12/2023
Interested Parties	n/a	n/a
Agency Notice	04/16/2023	04/12/2023
Legal Notice	06/02/2023	04/13/2023
Property Posting Sign for Neighborhood Meeting	04/16/2023	04/04/2023
Affidavit of Property Posting	04/16/2023	04/17/2023
Property Posting Sign	06/30/2023	06/30/2023
Affidavit of Property Posting	07/03/2023	06/30/2023

14. Agency Comments were received from:

- a. Department of Environmental Quality; dated April 13, 2023
- b. Ada County Highway District; dated May 9, 2023
- c. North Ada County Fire and Rescue; dated April 26, 2023
- d. Garden City Engineer; dated June 12, 2023

15. Written Public Comments were received from:

- a. No public comments were received.

16. On May 1, 2023, the application was scheduled for a discussion with the Design Review Consultants. A summary of items discussed is as followed:

- a. Variety of housing per PUD standards has been achieved:
  - i. Unit types 1 provide a two-master bedroom plan with a guest or office room; or, a three-bedroom.
  - ii. Unit types 3 have different stairwells and hallways.
  - iii. Unit types 4 have different stair and kitchen configurations, and private patio spaces.
- b. Variation of color pallets.
- c. Terminus view – ideally the parking is not located within the terminus view. Look at ways of moving the parking to have a larger open space.

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

- d. Entrances to building 4 & 5 do not have a “front porch” identity. Prioritize the pedestrian connectivity and circulation throughout the development.
  - e. Dead-end sidewalks.
  - f. Possible relocation of trash enclosure.
  - g. Irrigation – State law requires pressurized irrigation. Tiling of the existing irrigation ditch is permitted.
  - h. Glazing in the garage doors.
  - i. 45th Street sidewalks should have ADA ramp within the ROW, and provide for a linear pathway.
  - j. Class II high and wide branching shade trees required within the landscape buffer.
  - k. Striping of on-street parking stalls is not planned.
17. On May 23, 2023, the Design Review Consultants recommended approval subject to the following conditions:
- a. Main entrances to building type 3 shall be provided along the south side of the property. Main entrances shall not be directly accessible from the common drive.
  - b. The mechanical screening elements shall be integrated into the architecture of the building for units visible from common areas, pedestrian access pathways, and public rights-of-ways.
18. On June 21, 2023, the Garden City Planning and Zoning Commission recommended approval. A summary of the hearing minutes are below:
- a. Andrew Wheeler presented the application.
    - i. Can meet FEMA standards.
  - b. Staff Hanna Veal presented the staff report.
    - i. Landscape buffer between the street and sidewalk will be required to have street trees. If in conflict with ACHD drainage swales, the swales will need to be designed to accommodate the trees.
    - ii. Setback are requested at 0’. PUD code requires 10’ between structures, and building and fire code will need to be adhered to.
  - c. There was no public testimony.
  - d. Andrew Wheeler provided rebuttal:
    - i. FEMA Floodplain maps show a discrepancy of 3’. Drafted condition requires compliance with FEMA map.
    - ii. The buildings will have individual character, thus providing the PUD required variety.
    - iii. Discussed reason for requested waivers.
  - e. Public testimony was closed.
  - f. Discussion included:
    - i. The subdivision meets the PUD requirement for variety of housing.
    - ii. Setback standards for all setbacks can be 0’.
    - iii. Waivers are approved as drafted and request.

- g. Commissioner Wilde moved to approve the application as drafted in the affirmative draft decision with draft conditions of approval with the following modifications:
  - i. Condition item number four can be modified to allow for 0' setbacks on all residential lots.
- h. Commissioner Brown seconded the motion.
- i. The motion carried unanimously.

19. On July 10, 2023, the Garden City Council moved to **approve/ deny** the application subject to the following conditions:

- a. **This section will be completed following the hearing.**

20. The record contains:

- a. Application
- b. Noticing Documents
- c. Agency Comments
- d. Public Comments
- e. Design Review Consultation Audio: May 1, 2023
- f. Design Review Consultation Recommendation
- g. Planning and Zoning Minutes and Hearing Audio: June 21, 2023
- h. Planning and Zoning Commission Recommendation
- i. City Council Minutes and Hearing Audio: July 10, 2023
- j. City Council Decision

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

<b>The draft findings are written based on the recommendations from the Planning and Zoning Commission and 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>			
<b>GCC 8-5B-5: SUBDIVISION PROCESS: REQUIRED FINDINGS</b>			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X			<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 Mixed Use Commercial land use designation as it proposes a development more urban in</p>

			<p>character through two-story townhomes, a density of 16 dwelling units per acre, and a 60 percent lot coverage.</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>
X			<p><b>Finding 2.</b> The subdivision is in conformance with all applicable provisions of this title;</p> <p><b>Explanation:</b>  <b>In Approval:</b> 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>  <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>  <b>In Approval:</b>  There are public services available that can accommodate the proposed development.</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 Approval:</b>  This proposal will not unreasonably diminish the health, safety, or welfare of the community. The installation of pedestrian sidewalks along E. 45<sup>th</sup> Street provides for better pedestrian and bicycle connection(s) than what currently exists.</p> <p>The inter-development pathway systems, designated vehicular and bicycle parking spaces contribute to the health and welfare of the community by addressing both pedestrian needs as well as vehicular.</p> <p>Residents will be capable of traversing the development via the system of walkways to utilize the common open space while vehicles are limited to common drives. Potential conflict points between pedestrians and vehicles is kept minimal due to the limited number of crossings and separated pathways.</p>
X			<p><b>Finding 7.</b> The development preserves significant natural, scenic, or historic resources.</p> <p><b>Explanation:</b>  <b>In Approval:</b> The application integrates with the surrounding urban area and proposes to landscape the development site.</p>

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

**The draft findings are written based on the recommendations from the Planning and Zoning Commission and 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 8-6B-7: PLANNED UNIT DEVELOPMENT: REQUIRED FINDINGS**

Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
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 that the development shall be initiated within two years of the date of approval.</p>
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>  <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>
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></p>



			<p><b>In Approval:</b> The proposed development has a private drive that is capable of handling anticipated traffic which will provide ingress/egress onto E. 45th Street. The PUD is not large enough to trigger a traffic impact analysis.</p>
	X		<p><b>Finding 4.</b> Any proposed commercial development can be justified at the locations proposed.</p> <p><b>Explanation:</b>  <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 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 a variety of floorplans within the two-plex and three-plex buildings. The buildings provide architectural variation through a variety of color and material palettes.</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>  <b>In Approval:</b>  The proposal is compatible with the surrounding uses and the neighborhood vision.</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.
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 architectural design of the dwellings and increase in density, this development may be considered compatible with the existing residential uses in the neighborhood.</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> The ability to serve has been reviewed and submitted stating that the existing systems are adequate.</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>  <b>In Approval:</b> The townhome development is compatible with the surrounding uses and is permitted within the C-2 zoning district. The application meets the setback standards set forth in Garden City Code, and any deviations have been conditioned for compliance or waived as part of the Planned Unit Development.</p>

X			<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;
			<b>Explanation:</b> <b>In Approval:</b> The ability to serve has been submitted stating that the existing infrastructure systems are capable of services this development.
X			<b>Finding 3.</b> The use will not unreasonably diminish either the health, safety, or welfare of the community;
			<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.
X			<b>Finding 4.</b> The use is no in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.
			<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.

23. The record was reviewed in its entirety by the Garden City Council to render the recommendation.

### 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 **satisfies/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 Design Council hereby does **SUSTAIN/ REJECT/ REMAND** the Design Review Committee and Planning and Zoning Commission recommendations as modified and does **APPROVE/ DENY** Mod Court Townhomes, application SUBFY2023-

0001 for a Combined Preliminary and Final Plat Subdivision processed as a Planned Unit Development and subject to the following conditions:

### **CONDITIONS OF APPROVAL**

#### **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. Drainage
    - iv. Refuse
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 SUBFY2023-0001".
  - a. The approved reductions from code required setback are:
    - i. Lots 1-3, 4-7, and 8-22
      1. Rear Setback: 0'
      2. Side Yard Setbacks: 0'
      3. Front Setback: 0'
5. Common Lots
  - a. All common open spaces shall be located on common lots and noted as unbuildable on the plat.
  - b. Lots 23 shall be considered a common lot.

6. A building envelope within which future building footprints will be located shall be shown on the lots.
7. All private streets shall be located on common lots.
8. 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.
9. 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. A Floodplain development permit is required.
3. Landscaping
  - a. The landscaping shall be in conformance with this approval as reviewed and approved or otherwise conditioned.
  - b. A minimum of one tree per one thousand (1,000) square feet of landscaped area and one shrub per one hundred fifty (150) square feet of landscaped area shall be planted.
  - c. If any trees are to be removed from the site, a tree mitigation plan must be submitted and in compliance with GCC 8-41-7 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.
  - d. 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. 45<sup>th</sup> Street shall have a total of 5 class II or III trees.
      1. Frontage trees shall have high-and-wide branching canopies. Staff level approval is permitted.
    - ii. The frontage trees shall be planted within the landscape buffer between the 45<sup>th</sup> Street curb and sidewalk.
      1. The landscape buffer shall be 6’ wide with root barrier or 8’ wide and in accordance with ACHD policy.
  - 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 8-41 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.
4. 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.
5. All light fixtures must be compliant with Garden City Code 8-4A-4 Outdoor Lighting.
6. All outdoor service and equipment areas shall be screened and comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
7. 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.
8. Driveway openings in curbs shall comply with the requirements of the Transportation Authority. The driveway shall be straight or provide a 28-foot inside and 48-foot outside turning radius.
9. Contrasting hardscape material shall be installed at the drive aisles to better identify the pedestrian crossings along 45<sup>th</sup> Street.
10. All internal pedestrian crossings shall be slightly raised with contrasting landscaping materials.

11. Vehicular parking
  - a. The guest parking shall be in conformance with this approval as reviewed and approved or otherwise conditioned.
12. Bicycle Parking
  - a. Bicycle parking spaces shall be placed in such a way that when mounting and dismounting the bicycles do not reverse into the sidewalk traffic area, the common drive, nor 45<sup>th</sup> Street.
  - b. All bicycle parking shall be located so as to not prevent the sidewalk traffic from maintaining a continuous momentum.
13. All stormwater systems must comply with Garden City Code 8-4A-7.
14. Cross-Connections: All cross-connections between the domestic water lines and the irrigation water lines shall be in accord with the City's adopted standards, specifications, and ordinances.
15. Main entrances to building type 3 shall be provided along the south side of the property. Main entrances shall not be directly accessible from the common drive.

**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. 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.
5. The subdivision must obtain Ada County Approved addresses for all new lots.
6. 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.
7. All units adjacent to streets shall have a primary entrance on the street.

8. Setbacks for all lots shall be from the property lines.
9. The mechanical screening elements shall be integrated into the architecture of the building for units visible from common areas, pedestrian access pathways, and public rights-of-ways.
10. Any combination of the following for fifty (50) percent of the side hardscape including roads, sidewalks, courtyards, and parking lots is provided:
  - a. Shade (within 5 years of occupancy)
  - b. Paving materials with a Solar Reflectance Index (SRI) of at least 29;
  - c. Open grid pavement system.

**For the Duration of the Use:**

1. There shall be no landscaping work done beyond the parameters of the ownership of Mod Court Townhomes 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 Mod Court Townhomes 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.

**General:**

1. This approval is for a combined preliminary and final plat for a residential subdivision encompassing 23 lots – 22 lots are to be designated for residential use and 1 lot are to be designated as common lots.
2. This approval is based on the following plans:
  - a. Site Plan “Option 2” submitted on May 22, 2023, dated May 10, 2023;
  - b. Landscape Plan Submitted on April 28, 2023, dated April 27, 2023;
  - c. Architectural Elevation Plans and Floor Plans submitted on May 15, 2023, dated March 15, 2023;
  - d. Architectural Renderings submitted June 12, 2023.
3. Approved waivers to Garden City Code, Title 8 regulations include:
  - a. Setbacks, allowing for 0’ setbacks; and
  - b. More than 4 dwelling units being served through a common drive, allowing for 22 units to be served on a common drive;
  - c. 0.5 guest parking spots for every dwelling unit, allowing for the deficiency of 1 guest parking space;
  - d. Parking space dimensional standards; allowing for 9’ x 18’ spaces;
4. The existing Fairview Acres irrigation ditch is permitted to be tiled based on the Design Review Consultant’s determination per Garden City Code 8-4A-0:
  - a. The irrigation ditch, lateral, canal, or drain is enclosed or will soon be enclosed on both ends adjacent to the property, and the adjacent properties are or will be fully developed in a manner that future opening of the enclosed irrigation ditch, lateral, canal or drain is infeasible.
5. 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.
6. There is no guarantee that public parking will remain public.

7. The development shall be initiated within two (2) years of the date of approval.
8. The applicant shall comply with all requirements of the reviewing entities.
9. 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.
10. Approval of the subdivision does not constitute as the approval for any uses.
11. The approved addresses and a copy of the recorded plat must be provided to the city prior to the city considering the subdivision complete.
12. The approval is specific to the application provided and reviewed.
13. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained.
14. 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.
15. 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.
16. 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.
17. 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.

18. 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.
19. 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.
20. 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.
21. This approval shall expire two (2) years from its approval, unless otherwise extended as allowed by Garden City Code.
22. 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.
23. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
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 final decision 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.

July 10, 2023

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Mayor, John G. Evans

Date

