

STAFF SUGGESTED DECISION

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:)	SUBFY2024-0003
)	
Final Plat Subdivision)	FINDINGS OF FACT,
204 W. 36 th , 203 & 205 W. 37 th , W. 37 th)	CONCLUSIONS OF LAW, AND
Street)	DECISION
Garden City, Ada County, Idaho)	
_____)	

THIS MATTER, came before the Garden City Council for consideration on April 29, 2025. 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 Final Plat Subdivision.
2. The preliminary plat was approved by City Council on August 12, 2024.
3. The location of the project is:
 - a. 204 W. 36th Street; Taxing Parcel Number: R2734511610; Property is described as LOT 7 EXC R/W BLK K FAIRVIEW ACRES SUB NO 2;
 - b. 203 W. 37th Street; Taxing Parcel Number: R2734511720; Property is described as E 1/2 OF LOT 28 BLK K FAIRVIEW ACRES SUB NO 2;
 - c. 205 W. 37th Street; Taxing Parcel Number: R2734511725; Property is described as W 1/2 OF LOT 28 BLK K FAIRVIEW ACRES SUB NO 2;
 - d. W. 37th Street; Taxing Parcel Number: R2734511730; Property is described as E 1/2 OF LOT 29 BLK K FAIRVIEW ACRES SUB NO 2.
4. The subject property is 1.474 acres.
5. The applicant is Jeff Hatch.
2. The property owner of record is DCC Commercial Properties LLC.
3. The project is in the C-2 Zoning District.

4. The project is not located in the floodplain according to the 2003 FIRM.
5. The project is located in the floodplain according to FEMAs most recent modeling of the Lower Boise River, adopted by resolution 1083-20.
6. The following section of the Garden City Development Code applies to this proposal:
 - a. Garden City Code 8-5B-3: Final Subdivision Process Land Division Regulations
 - b. Garden City Code 8-6A Administration
7. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2 Required Application Information			Application Information
Provided			
Yes	No	Waived	
X			Preliminary Title Report
X			Subdivision Map
X			Topographic Survey
X			Grading Plan
X			Soils Report
X			Hydrology Report
X			Engineering Plans and Specifications
X			Dedications and Easements
X			Covenants and Deeds and Restrictions
X			Approved Addresses

*Items that are waived may be required for reviews later.

8. Additional application materials submitted include:
 - a. Site Plan;
 - b. Open Space Plan;
 - c. Floor Plans;
 - d. Landscape Plan;
 - e. Irrigation Email;
 - f. Will Serve Letter;
 - g. Affidavit of Legal Interest;
 - h. Application;
 - i. Statement of Intent.

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

Noticing Requirement	Required Date	Completion Date
Letter of Acceptance		03/11/2025
Radius Notice	04/14/2025	03/10/2025
Agency Notice	04/14/2025	03/10/2025

Property Posting Sign	04/19/2025	04/17/2025
Affidavit of Property Posting and Photos	04/22/2025	04/17/2025

10. On April 29, 2025, a public hearing before the Garden City Council was held:
a. This section will be completed after the hearing.

11. The record contains:
- a. Application
 - b. Agency Comments
 - c. Public Comments
 - d. Noticing Documents
 - e. Staff Report
 - f. Hearing Minutes & Audio
 - g. Signed Findings of Fact, Conclusions of Law and Decision

12. In consideration of a final subdivision the planning official has found that the final plat is in substantial compliance with the preliminary plat subdivision approval:

The below are staff suggested reasoned statements. The City Council 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-3: FINAL SUBDIVISION PROCESS			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X			Finding: The number of buildable lots is the same or fewer Explanation: The number of buildable lots is the same as the approved preliminary plat.
X			Finding: The amount of common open space is increased Explanation: There has been no change in the amount of common space.
X			Finding: The amount of open space is relocated with no reduction in the total amount

			Explanation: There has been no change to the open space.
X			Finding: The number of open space lots has been increased
			Explanation: The number of lots are consistent.
X			Finding: The transportation authority has required minor changes
			Explanation: The transportation authority has not required any changes that warrant a re-review of the application.
X			Finding: The general configuration has changed by less than ten percent (10%)
			Explanation: The configuration has not changed by more than 10%.
X			Finding: The planning official or designee has determined there is a substantial difference in the final subdivision than that which was approved as a preliminary subdivision or that the conditions have not been met.
			Explanation: There final subdivision proposal is consistent with the preliminary plat approval, and the preliminary subdivision conditions of approval are still required of the application.

13. The record was reviewed by the 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 **satisfies/does not satisfy** the required findings under **GCC 8-5B-3**.

DECISION

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and Decision, the Garden City Council hereby **APPROVES/DENIES** application SUBFY2024-0003 for a Final Plat Subdivision subject to the following conditions:

POTENTIAL CONDITIONS FOR APPROVAL DECISION

Application Specific:

1. This approval is for a preliminary plat for a residential subdivision encompassing 32 lots – 28 lots are to be designated for residential use and 4 lots are to be designated as common lots.
2. This approval is based on the following plans:
 - a. Landscape Plan Submitted on January 29, 2025,, dated June 2024;
 - b. Architectural Elevation Plans and Floor Plans submitted on January 29, 2025, dated June 2024;
 - c. Site Plan Submitted January 29, 2025, dated June 2024.
3. Approved waivers to Garden City Code, Title 8 regulations include:
 - a. More than 4 dwelling units being served through a common drive, allowing for 30 dwelling units to be served on a common drive.
 - b. Reduced setbacks internal to the development, allowing for:
 - i. Front: 3'
 - ii. Interior Side: 0'
 - iii. Rear: 2'
 - c. Entitlement extension from one-year to five-years.
 - d. Demonstration that the development can be initiated within two years of the date 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. Each final subdivision approval shall indicate the acceptance of the infrastructure, the timing of the construction and completion for all improvements and any required amenities associated with the subdivision.
3. Common driveways, open space, and other common areas shall be included in an easement or on a common lot noted as unbuildable.
4. 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. A public easement dedicated to the city to ensure cross connection is maintained indefinitely. The easement shall span the entire length and width of the proposed drive between W. 36th and W. 37th Street.
5. Provide a note on the final plat to read, "Building setback lines shall be in accordance with the approved planned unit development application, Garden City file number SUBFY2024-0003".
- a. The approved reductions from code required setback are:
 - i. Front Setback: 3'
 - ii. Interior Side Setback: 0'
 - iii. Rear Setback: 2'
 - iv. Street Side Setbacks: 5'
6. For setback interpretation:
- a. The front setback is considered the façade that contains the primary pedestrian entrance (front door).
 - b. The rear setback is considered the façade that contains the garage door.
 - c. The interior side is considered the shared common wall(s) within the structures.
7. Common Lots:
- a. All common open spaces shall be located on common lots and noted as unbuildable on the plat.
 - b. Lots 1, 2, 3, & 4 shall be considered common lots.
8. A building envelope within which future building footprints will be located shall be shown on the lots.
9. All private streets shall be located on common lots.

10. 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.
11. The CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho."
12. The CC&Rs must state that garages shall be maintained so that they are available for parking the tenant of the dwelling's motor vehicles.
13. Submit a sustainability checklist that demonstrates compliance with or an exemption from Garden City Code 8-4G for each anticipated lot and or structure prior to final plat signature.

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. If any trees are to be removed from the site, a tree mitigation plan must be submitted 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.
 - ii. Mitigation shall be required for all existing trees four-inch (4") caliper or greater that are removed or damaged from the site.
 - iii. Mitigation shall be replacement of the total calipers lost on site up to an amount of one hundred percent (100%) replacement.
 - c. A minimum of one class III or class II tree shall be planted in the frontage and every adjacent streetside. An additional class II or III tree shall be planted in the corresponding setback for every increment of fifty feet (50') of linear feet of frontage.
 - i. The frontage of W. 36th Street shall have a total of 3 class II or III trees.
 - ii. The frontage of W. 37th Street shall have a total of 3 class II or III trees.
 - d. A variety of tree species shall be planted to meet the requirements of Garden City Code 8-4I-3.
 - i. At least 5 tree species shall be provided, this can include existing tree species and proposed tree species.

- e. Perimeter landscaping shall be provided along the common property line between an adjacent nonresidential use and a residential use.
 - i. Perimeter landscaping shall consist of screening vegetation at least 6' wide and 6' high at maturity, with at least one tree planted for every 15' of perimeter length or as appropriate to the selected species.
 - f. At least 1 tree shall be provided at the beginning and end of each parking row per Garden City Code 8-4I-6 Parking Lot Landscaping Provisions.
 - g. 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.
 - h. 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.
 - i. 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.
 - j. 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.
 - k. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
 - l. 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 the 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. Any future fence or wall will be required to be in compliance with code at the time of development.
9. Driveway openings in curbs shall comply with the requirements of the Transportation Authority.
10. Contrasting hardscape material shall be installed at the drive aisles to better identify the pedestrian crossings along 36th and 37th Street, and internal to the development.
 - a. Pedestrian crossings internal to the development shall be raised with a rolled curb so as to decrease the speed of vehicular traffic along the common drive and to identify the crossing.
11. 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, 36th, or 37th Street.
 - b. All bicycle parking shall be located so as to not prevent the sidewalk traffic from maintaining a continuous momentum.
 - c. Bicycle parking spaces shall meet the dimensional standards set forth in Garden City Code 8-4D.
12. All stormwater systems must comply with Garden City Code 8-4A-7 and other stormwater ordinances and policies. Drainage must be retained on site.
13. 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.
14. All agency comments including but not limited to the City Engineer and North Ada County Fire and Rescue District shall be addressed.

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.
 - a. Additional modulation, fenestrations, articulation, and glazing shall be provided along the front facades of buildings A and C; or
 - b. The front facades of buildings A and C shall be returned to the Design Review Consultants for approval.
2. The floor plans 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. Setbacks for all lots shall be from the property lines.

During the Construction:

1. Construction noise that is disruptive to the neighborhood shall be limited to Monday through Saturday from 7:00 am to 8:00 pm unless residents within 300' and the city have been notified in advance of the specific days which it will be necessary to exceed this limitation.

For the Duration of the Use:

1. All streets and driveways shall adhere to the standards of a clear vision triangle.
2. 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.

3. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
4. A three-foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
5. All common open spaces shall be located on an open space easement with the grantee being Reese 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 Requirements:

1. Upon approval or approval with conditions by the council and signature of the city engineer, the applicant may submit the final subdivision to the Ada County recorder for recording. The final subdivision shall contain the certifications required under Idaho Code section [50-1301](#) et seq., as well as those required by the city.
2. The approval is specific to the application provided and reviewed.
3. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained.
4. The applicant shall comply with all requirements of the reviewing entities.
5. 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.
6. All utilities on the site, including telephone, cable television, and electrical systems shall be underground and in compliance with Garden City Code 8-4A-8.
7. Required easements must either be on the plat or provided in a recordable document that includes a legal description and illustration.
8. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
9. The property owner is responsible for the maintenance of all landscaping and screening devices required.
10. 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.
11. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead plant materials shall be replaced.
12. 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.

13. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
14. 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.
15. 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.
16. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
17. 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.
18. 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.
19. All other 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.
20. The landscape installation shall stabilize all soil and slopes.
21. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
22. System Installation Required: 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.
23. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to final plat signature.
24. The property owner is responsible for the maintenance of all landscaping and screening devices required.
25. All outdoor living spaces must comply with Garden City Code 8-3C General Provisions- Living Space Requirements.
26. All outdoor service and equipment areas shall comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
27. All stormwater systems must comply with Garden City Code 8-4A-7.
28. 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.
29. Utility easements that are unobstructed by permanent structures shall be provided along front lot lines, rear lot lines, and side lot lines when deemed necessary by the City Engineer. 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.
30. Unobstructed easements, including but not limited to, drainage, water, and sewer easements shall be provided as required by the City.

31. 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.
32. 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 substantial 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 substantial conformance with the plans reviewed and approved.
33. Any substantial changes to the design shall be reviewed by the Design Review Committee for compliance with Garden City Code 8-4. Any other changes that are not in substantial conformance with the approval shall be remanded to the decision-making body.
34. 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.
35. 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 has 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.
36. This approval shall expire five (5) years from its approval, unless otherwise extended as allowed by Garden City Code.
37. Approval shall become null and void if the applicant fails to record the plat within five (5) 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.
38. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
39. Action is the date the decision body formalizes their decision. The decision body may formalize their decision by approving a draft decision or a draft decision with noted changes at the hearing. The date of action may be a different date than the applicant is provided with a signed copy of the decision.
40. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
41. Pursuant to Idaho Code, a request for reconsideration must be submitted within 14 days of the action and prior to judicial review. The written request must identify specific deficiencies in the decision for which reconsideration is sought.
42. A takings analysis pursuant to Idaho Code may be requested on final decisions.

43. 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.

Mayor, John G. Evans

April 29, 2025
Date

DRAFT