

BEFORE THE GARDEN CITY COUNCIL  
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:	)	SUBFY2024-0004
	)	
Combined Preliminary/Final Plat	)	
Subdivision	)	FINDINGS OF FACT,
418 E. 51 <sup>st</sup> Street	)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho	)	AND DECISION
	)	
_____	)	

THIS MATTER, came before the Garden City Council for consideration on August 12, 2024. 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 subdivision.
2. The applicant is Antonio Conti.
3. The property owner of record is KEENEY ELISABETH A.
4. The location of the project is 418 E. 51st Street; Taxing Parcel Number: R7334160815; Property is described as: LOT 25 BLK 05 RANDALL ACRES SUB NO 05 #0820-B.
5. The subject property is 0.690 acres.
6. The project is located in the Mixed Use Residential and Activity Node: Neighborhood Destination designations of the Comprehensive Plan Future Land Use Map.
7. The project is in the R-3 Medium Density Residential Zoning District.
8. The project is in the:
  - a. 100 Year of the Special Flood Hazard Area according to the 2020 adopted FIRM (the FIRM has adopted seclusion and utilizes the 2003 Flood Insurance Study).
  - b. 100 Year of the Special Flood Hazard Area according to FEMA's most recent model as adopted by resolution 1083-20.
9. There has been no denial of any application in the same form for the same use on this property within one year.

10. 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 8-4I: Landscaping and Tree Protection Provisions
  - i. Garden City Code 8-4L: Open Space Provisions
  - j. Garden City Code 8-6A: Administration – General Provisions
  - k. Garden City Code 8-5: Land Division regulations
  - l. Garden City Code 8-6: Administration

11. 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*
<b>Other Materials Provided</b>			

			Application Neighborhood Meeting Conformation
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\*Items that may be required for reviews later.

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

Noticing Requirement	Required Date <sup>1</sup>	Completion Date
Receipt of application		05/22/2024
Letter of Acceptance	06/21/2024	06/25/2024
Radius Notice	07/02/2024	06/20/2024
Legal Notice	06/28/2024	06/21/2024
Agency Notice	07/02/2024	06/20/2024
Property Posting Sign	07/07/2024	07/03/2024
Affidavit of Property Posting and Photos	07/10/2024	07/03/2024

13. Agency Comments were received from:

- a. Republic Services dated June 20, 2024.
- b. Idaho transportation Department dated June 25, 2024.
- c. North Ada County Fire and Rescue dated June 27, 2024.
- d. Ada County Highway District dated June 27, 2024.
- e. Idaho Department of Environmental Quality dated July 5, 2024.
- f. City Engineer dated July 3, 2024.

14. Written Public Comments were received from:

- a. Dolan Keeney dated June 24, 2024.

15. On July 17, 2024, a public hearing before the Planning and Zoning Commission was held, a summary of the hearing is as followed:

- a. Will Antonio Conti presented the application.
- b. Staff Hanna Veal presented the staff report.
- c. Alan Page filled out a public hearing sign-up sheet but did not wish to testify. Indicated a neutral position of the application.
- d. Antonio Conti provided rebuttal:
  - i. No intention of selling the property, only wish to divide the lot legally at this point without construction.
  - ii. Construction would occur when Lot 3 & 4 are built on.
- e. Public testimony was closed.
- f. Discussion included:
  - i. Unanimous support and understanding of the application.
- g. Commissioner Wilde moved to approve the application as drafted in the draft decision in the affirmative.
- h. Commissioner Sheppard seconded the motion.
- i. The motion carried unanimously.

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

16. On August 12, 2024, a public hearing before the Garden City Council was held:
  - a. Mayor Evans introduced the application, including the order of the hearing.
  - b. Upon query, no member of the Council indicated that they had a conflict of interest or ex parte communication.
  - c. Antonio Conti presented the application.
  - d. Jenah Thornborrow provided a staff report.
  - e. There was no one present who wished to provide testimony.
  - f. Mr. Conti provided a rebuttal indicating that his clients could utilize the Restricted Build Agreement process.
  - g. The public hearing was closed.
  - h. Motion:
    - i. Council President Page moved to sustain the Planning and Zoning Commission’s recommendation approve the application as presented.
    - ii. Council Member Rasmussen seconded the motion.
    - iii. There was no discussion on the motion.
    - iv. The motion passed with unanimous support of the motion.

17. The record contains:
  - a. Application
  - b. Noticing Documents
  - c. Agency Comments
  - d. Public Comments
  - e. Planning and Zoning Minutes and Hearing Audio: July 17, 2024
  - f. Planning and Zoning Commission Recommendation
  - g. City Council Minutes and Hearing Audio: August 12, 2024
  - h. Signed Findings of Fact, Conclusions of Law, and Decision

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

<b>GCC 8-5B-5: SUBDIVISION PROCESS: REQUIRED FINDINGS</b>			
Conclusion			Reasoned Statement
Compliant	Not Applicable to this Application	Not Compliant	
X			<p><b>Finding 1.</b> The subdivision is in conformance with the Comprehensive Plan.</p> <p><b>Explanation:</b> The application is cohesive with the Comprehensive Plan’s Mixed Use Residential land use designation as it proposes small scale residential dwelling</p>

			<p>units, with a density and design that is more urban in character. Additionally, the proposed development aligns with the existing residential neighborhood and the surrounding developing area.</p> <p>The application is in conformance with the Comprehensive Plan’s Goals:</p> <p><b>Goal 2. Improve the City Image</b></p> <ul style="list-style-type: none"> <li>• 2.1 Objective: Encourage new and distinctive neighborhoods.</li> <li>• 2.4 Objective: Create a vision for the design of all streets and highways consistent with city’s urban setting.</li> </ul> <p><b>Goal 4. Emphasize the “Garden” in Garden City</b></p> <ul style="list-style-type: none"> <li>• 4.1 Objective: Beautify and landscape.</li> <li>• 4.3 Objective: Beautify streets, sidewalks and gateways with landscaping, trees, and public art.</li> </ul> <p><b>Goal 6. Diversity in Housing</b></p> <ul style="list-style-type: none"> <li>• 6.2 Objective: Continue to be a leader and set an example for the region in creating a diversity of housing.</li> <li>• 6.3 Objective: Maintain the diversity of housing.</li> </ul> <p><b>Goal 7. Connect the City</b></p> <ul style="list-style-type: none"> <li>• 7.1 Objective: Create pedestrian and bicycle friendly connections.</li> <li>• 7.4 Objective: Maintain and improve standards for sidewalks, curbs, and gutters.</li> </ul>
X			<p><b>Finding 2.</b> The subdivision is in conformance with all applicable provisions of this title;</p> <p><b>Explanation:</b> As conditioned, 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</p>

			to accommodate the proposed development;
			<b>Explanation:</b> There is a drafted condition of approval requiring that the ability to serve is provided prior to construction permits being issued to ensure that there are adequate public services available for the proposed development.
X			<b>Finding 4.</b> The subdivision is in conformance with scheduled public improvements in accord with the city's capital improvement program;
			<b>Explanation:</b> The subdivision does not undermine scheduled public improvements or the City's capital improvement program.
X			<b>Finding 5.</b> There is public financial capability of supporting services for the proposed development
			<b>Explanation:</b> The application has provided a waiver for the ability to serve letter and a condition of approval for the submittal of this letter has been made.
X			<b>Finding 6.</b> The development will not be detrimental to the public health, safety, or general welfare;
			<b>Explanation:</b> This proposal will not unreasonably diminish the health, safety, or welfare of the community by maintaining the existing attached sidewalk along E. 51 <sup>st</sup> Street.
X			<b>Finding 7.</b> The development preserves significant natural, scenic, or historic resources.
			<b>Explanation:</b> The application integrates with the surrounding urban area and proposes to landscape the development site.

19. 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** the required findings under GCC 8-5B-5.

### DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, the Garden City Council hereby does **SUSTAIN** the Planning and Zoning Commission recommendations as modified and does **APPROVE** Keeney Estates Subdivision, application SUBFY2024-0004 for a Combined Preliminary and Final Plat Subdivision and is subject to the following conditions:

#### Prior to City Signature on Plat:

1. The final plat shall be in conformance with this approval as reviewed and approved or otherwise conditioned through this approval.
2. Common driveways, open space, and other common areas shall be included in an easement or on a common lot noted as unbuildable.
3. A note must be provided on the final plat documenting:
  - a. The current flood zone in which the property or properties are located;
  - b. FEMA FIRM panel(s), FIRM effective date(s), flood zone(s), base flood elevation(s); and
  - c. A note: "Flood zones are subject to change by FEMA and all land within a floodway or floodplain is regulated by this code.
  - d. The boundary line must be drawn on the plat in situations where two (2) or more flood zones intersect over the property or properties being surveyed.
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. Common open space
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 SUBFY2024-0004".
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 and common areas 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."
9. All existing legal nonconforming fences consisting of but not limited to chain-link, and chain-link with slats shall be removed or replaced with code compliant fencing material.
10. All agency comments including but not limited to the City Engineer and North Ada County Fire and Rescue District shall be addressed.
  - a. Parking shall not be permitted on the common drive. No Parking signs shall be installed at the entrance of the subdivision indicating as such.

**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. The ability to serve shall be provided.
3. A Floodplain development permit is required.
4. A Conditional Use permit is required.
5. The following items shall be submitted as part of the construction plans review: Preliminary Title Report, Topographic Survey, Grading Plan, Soils Report, Hydrology Report, Engineering Drawings and Specifications, Natural Hazards



and Resources Analysis, Dedications and Easements, Covenants and Deed Restrictions, Affidavit of Legal Interest, Irrigation/Ditch Company Information.

6. 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 and found 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 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 E. 51<sup>st</sup> Street shall have a total of 3 class II or III trees.
- d. A minimum of five percent (5%) of the gross site area shall be landscaped areas, excluding areas for setback or perimeter landscaping.
  - i. At least 1,502sqft of landscaping shall be provided.
- e. 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.
- f. Perimeter landscaping shall be provided along the northern property boundary line adjacent to the common drive. Perimeter landscaping shall meet the standards set forth in Garden City Code 8-4I-5.
- 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 landscaping must be approved by the Design Review Committee or decision maker.

7. Common Open Space:
  - a. A minimum of ten percent (10%) of the gross site area shall be in common open space.
  - b. Common open space shall be designed as an integral part of a residential development project by demonstrating adherence to the following standards:
    - i. Areas on the site of mature landscaping, trees, and natural features have been incorporated into the common open space area;
    - ii. The common open space area provides connectivity with other open areas, public spaces, trails, or water features within and off the site; and
    - iii. The common open space area is located and designed to serve a passive or recreational function.
  - c. Common open space shall meet the dimensional standards set forth in Garden City Code 8-4L-4.
  - d. Common open space shall be located on a common lot or an area with a common maintenance agreement.
  - e. All common open space shall be the responsibility of an owners' association for the purpose of maintaining the common area and improvements thereon.
8. 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.
  - a. Comply with the City Engineer's review comments.
9. All light fixtures must be compliant with Garden City Code 8-4A-4 Outdoor Lighting.
10. All outdoor service and equipment areas shall be screened and comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
11. 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.
12. Driveway openings in curbs shall comply with the requirements of the Transportation Authority.

13. Contrasting hardscape material shall be installed at the drive aisles to better identify the pedestrian crossings along E. 51<sup>st</sup> Street.
14. Vehicular parking:
  - a. Parking spaces shall be a minimum of 9'X20'
  - b. Each lot shall have at least two residential vehicular parking spaces with one enclosed vehicular parking space; or meet the standards set forth in Garden City Code 8-4D at the time of development.
  - c. The subdivision shall provide at least two guest parking spaces, such spaces may be within the driveway's of the residential lots.
15. All stormwater systems must comply with Garden City Code 8-4A-7.
16. 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.

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

1. 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.
2. The subdivision must obtain Ada County Approved addresses for all new lots.
3. 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.
4. Setbacks for all lots shall be from the property lines.
5. 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.
- 6.

**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 Keeney 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.

**General:**

1. This approval is for a combined preliminary and final plat for a residential subdivision encompassing 4 lots.
2. This approval is based on the following plans:
  - a. Final Plat Submitted July 3, 2024, dated July 3, 2024
  - b. Landscape Plan Submitted on July 3, 2024, dated May 20, 2024
  - c. Preliminary Plat Submitted July 8, 2024, dated July 8, 2024.
3. There is no guarantee that public parking will remain public.
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 two (2) years 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 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.
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. 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.
22. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
23. 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.
24. A takings analysis pursuant to Idaho Code may be requested on final decisions.
25. If any term or provision of this decision, to any extent, is held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.



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Mayor, John G. Evans

August 12, 2024

Date